



WP (MD) No.18402 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.10.2023
Pronounced on : 11.03.2024
CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**
AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

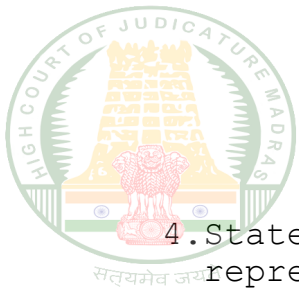
WP (MD) No.18402 of 2018 and
WMP (MD) No.15720 of 2023

S.Kamaraj @
Muthalakuruchi Kamaraj

... Petitioner

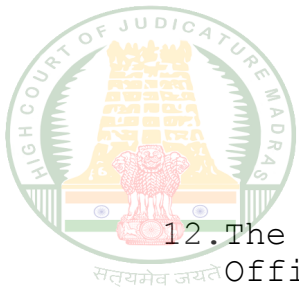
Vs

- 1.Union of India represented by
the Principal Secretary /
the Director,
The Ministry of Water Resources,
River Development and Ganga Rejuvenation,
Shram Shakti Bhavan, Rafi Marg,
New Delhi.
- 2.State of Tamil Nadu,
represented by
The Principal Secretary,
Tamil Nadu Tourism, culture
and Endowment Department,
Fort St. George,
Chennai - 600 009.
- 3.State of Tamil Nadu
represented by
The Principal Secretary,
The Hindu Religious and
Charitable Endowment Department,
Fort St.George,
Chennai - 600 009.



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- 4.State of Tamil Nadu,
represented by
The Principal Secretary,
Public Works Department,
Fort.St.George,
Chennai - 600 009.
- 5.The District Collector,
Office of the District Collector,
Tirunelveli.
- 6.The District Collector,
Office of the District Collector,
Thoothukudi.
- 7.The Commissioner,
Tirunelveli Corporation,
Tirunelveli District.
- 8.The Chief Engineer,
Public Works Department,
Tamirabarani Division,
Samathanapuram,
Palayamkottai,
Tirunelveli District.
- 9.The Commissioner,
The Hindu Religious and
Charitable Endowment Department,
Chennai.
- 10.The Municipal Commissioner,
Office of the Municipal Commissioner,
Ambasamudram Municipality,
Tirunelveli District.
- 11.The Municipal Commissioner,
Office of Municipal Commissioner,
Vikramasingapuram Municipality,
Tirunelveli District.



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12.The Block Development Officer,
Office of the Block Development Officer,
Cheranmahadevi,
Tirunelveli District.

13.The Chairman,
Srivaikundam Town Panchayat,
Thoothukudi District.

14.The Chairman,
Alwarthirunagari Town Panchayat,
Tirunelveli District.

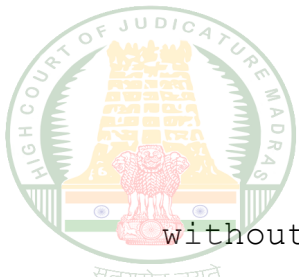
15.The Chairman,
Kallidaikuruchi Town Panchayat,
Tirunelveli District.

16.The Chairman,
Eral Town Panchayt,
Thoothukudi District.

... Respondents

[R-9 was suo motu impleaded vide
order dated 10.12.2018 and R-10
to 16 were impleaded vide court
order dated 03.08.2023 in
WMP(MD)No.15717 of 2023]

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India for a writ mandamus to direct the
respondents to renovate all ancient mandabams and heritabe
padithurai situated in the banks of Tamirabarani river and
to direct the respondents to take immediate action to
prevent the drainage water mixing in the entire
Tamirabarani river in Tirunelveli and Thoothukudi district
and to direct the respondents to make all arrangements and
plan for celebrate the Tamirabarani Maha Pushkara function



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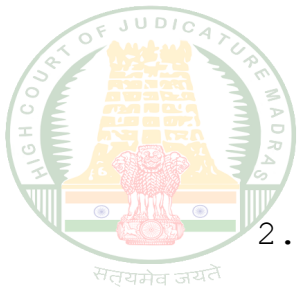
without affection the eco system of Tamirabarani river
within the time stipulated by this Court.

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For Petitioner	: Mr.R.Alagumani
For Respondent	: Mr.Pon Senthil Kumaran
No.1	
For Respondent	: Mr.V.Nirmal Kumar
Nos.2,4 to 6,8	Government Advocate
10 to 16	
For Respondent	: Mr.Aairam K Selvakumar
No.7	
For Respondent	: Mr.N.Ramesh Arumugam
Nos.3 and 9	Government Advocate

ORDER

The petitioner is a writer and an author of several books on the history and heritage of river Tamirabarani. He has filed this writ petition seeking a mandamus to the respondents to renovate ancient Mandapams and heritage Padithurais in the bank of river Tamirabarani and to prevent the sewage mixing with river Tamirabarani. This writ petition was filed in the year 2018 when the District administration proposed to conduct a holy festival of Mahapuskarani in river Tamirabarani.



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2.The petitioner has done an extraordinary work, collected various details and has presented his case how river Tamirabarani is being polluted. He has also conducted a field study along with a professor of Saint George College and filed report along with photographs.

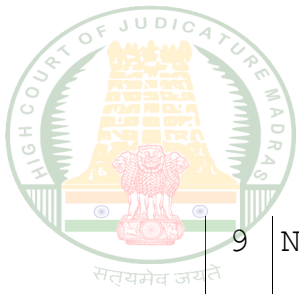
3.The case of the petitioner is as follows:

i.Sewage is let into river Tamirabarani in several places from Vikaramasingapuram to Attur, taking advantage of the bushes. More particularly, in Mari Oodai at Melapalayam area sewage flows like a stream and merges with river Tamirabarani and also in C.N.Village and Vannarapettai.

ii. The details of the places, where sewage is mixed with river Tamirabarani as stated by the petitioner are extracted hereunder:



S. No	Sewage mixing places	Taluk	Remarks
1	Vikramasingapuram	Ambasamuthiram	Sewage mixing into Tamirabarani river through this area.
2	Cheranmahadevi	Cheranmahadevi	Sewage mixing into Tamirabarani river through this area.
3	Thiruvengadanathapuram	Tirunelveli	Sewage mixing into Tamirabarani river through this area.
4	Melapalayam	Palayamkottai	Sewage flows likde canal and finally mixing into Tamirabarani river
5	C.N.Village	Tirunelveli	Sewage mixing into Tamirabarani river by way of 3 pipes
6	Melanatham	Palayamkottai	Sewage mixing into river Tamirabarani river bridge
7	Kokkirakulam	Tirunelveli	Sewage mixing into Tamirabarani river by way of 2 small canals
8	Vannarapettai	Tirunelveli	Sewage at various areas together mixing into Tamirabarani river, instead of sewage tanks

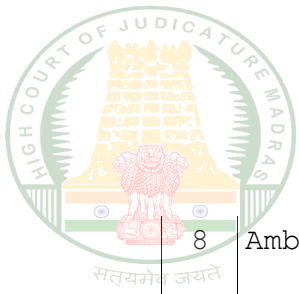


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9	Nanalkadu	Srivaigundam	High quantity of sewage into Tamirabarani river through this area
10	Alwarthirunagari	Eral	Sewage mixing into Tamirabarani river through small canals

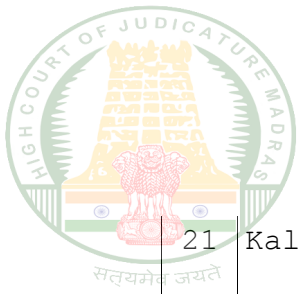
iii.The petitioner has also listed out the ancient Mandabams and heritage Padithurais (Bathing Place) situated on the bank of river Tamirabarani along with its present condition. The same is extracted as follows:

S. No	Area	Taluk	Location	Good Level (in %)	Damaged Level (in %)
1	Papanasam	Ambasamudram	Near Agasthiya falls	85	15
2	Papanasam	Ambasamudram	Muthalamandapam next to Thalayamani	90	10
3	Papanasam	Ambasamudram	Opposite to Papanasam Temple	90	10
4	Papanasam	Ambasamudram	Near Papanasam Temple	90	10
5	Papanasam	Ambasamudram	Near Papanasam Temple	90	10
6	Papanasam	Ambasamudram	Near Papanasam Temple	Nil	100
7	Sankarankovil	Ambasamudram	Sankarankoil Backside	90	10



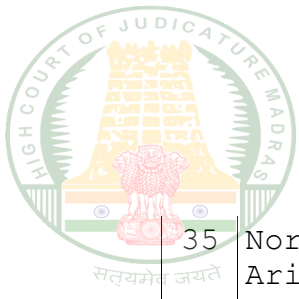
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8	Ambasamudram	Ambasamudram	Near Anjaneyar Temple	60	40
9	Ambasamudram	Ambasamudram	Muthalmandapam opposite to Kasinathar Temple	40	60
10	Ambasamudram	Ambasamudram	Middle of river near Kasinathar temple	40	60
11	Ambasamudram	Ambasamudram	River side near Kasinathar Temple	85	10
12	Ambasamudram	Ambasamudram	Near Kasinathar temple	80	20
13	Ambasamudram	Ambasamudram	River side near Kasinathar temple	90	10
14	Ambasamudram	Ambasamudram	Riverbank near Kasinathar temple	85	15
15	Ambasamudram	Ambasamudram	Near Kasinathar temple	90	10
16	Ambasamudram	Ambasamudram	Riverbank opposite to Kasinathar temple	85	15
17	Ambasamudram	Ambasamudram	Riverbank opposite to Kasinathar temple	90	10
18	Ambasamudram	Ambasamudram	Riverbank opposite to kasinathar temple	90	10
19	Ambasamudram	Ambasamudram	Riverbank opposite to kasinathar temple	70	30
20	Ambasamudram	Ambasamudram	Eastside of Kasinathar Temple	30	70



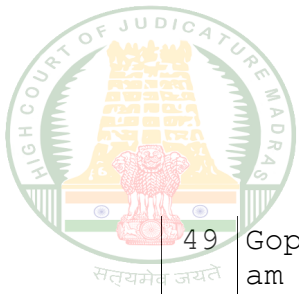
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21	Kallidaikuruchi	Ambasamudram	Southern bank of Tamirabarani river	60	40
22	Kallidaikuruchi	Ambasamudram	Southern bank of Tamirabarani river	60	40
23	Kallidaikuruchi	Ambasamudram	Theerthavari mandapam	85	15
24	Urakaadu	Ambasamudram	Western bank of river Tamirabarani	90	10
25	Athalanallur	Cheranmadevi	Backside of Gajendravaradhar temple	90	10
26	Athalanallur	Cheranmadevi	Opposite to Gajendravaradhar temple	80	20
27	Thirupudai Maruthur	Cheranmadevi	Backside of sri Narumbunatha swami temple	80	20
28	Thirupudai Maruthur	Cheranmadevi	Backside of sri Narumbunatha swami temple	75	25
29	Thirupudai Maruthur	Cheranmadevi	Backside of sri Narumbunatha swami temple	75	25
30	Thirupudai Maruthur	Cheranmadevi	Backside of sri Narumbunatha swami temple	80	20
31	Thirupudai Maruthur	Cheranmadevi	Near to sri Narumbunatha swami temple	75	25
32	Then Thirupuvanam	Cheranmadevi	Mudhal Mandabam near bridge	30	70
33	Then Thirupuvanam	Cheranmadevi	Second Mandabam	80	20
34	North Ariyanayagipuram	Cheranmadevi	Northern Bank of Tamirabarani River	70	30



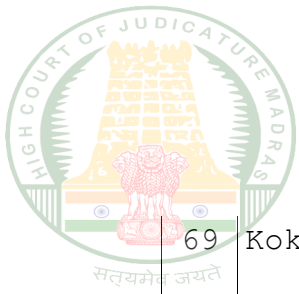
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35	North Ariyanayagipuram	Cheranmadevi	Southern Bank of Tamirabarani River	80	20
36	North Ariyanayagipuram	Cheranmadevi	Southern Bank of Tamirabarani River	85	15
37	Cheranmadevi	Cheranmadevi	Near Bakthavachalam Sami Temple (ASI)	40	60
38	Cheranmadevi	Cheranmadevi	Near Bakthavachalam Sami Temple (ASI)	40	60
39	Cheranmadevi	Cheranmadevi	Near Ammainatha Swami Temple	40	60
40	Cheranmadevi	Cheranmadevi	Near Ammainatha Swami Temple	70	30
41	Kodaganallur	Tirunelveli	Mandapam rear riverbank	60	40
42	Kodaganallur	Tirunelveli	Padithurai Mandapam	80	20
43	Kondanaragaram	Tirunelveli	Mandapam at Major portion of the Tamirabarani river	10	90
44	Kondanagaram	Tirunelveli	Mandapam at major portion of Tamirabarani river	20	80 sub-merged into river
45	Kondanagaram	Tirunelveli	Mandapam at major portion of Tamirabarani river	20	80
46	Kondanagaram	Tirunelveli	Mandapam at Southern bank	60	40
47	Suthamalli	Tirunelveli	Southern side of riverbank	50	50
48	Suthamalli	Tirunelveli	Western side of Gopalasamuthiram bridge	65	35



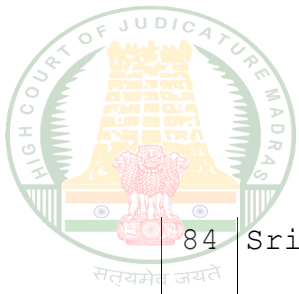
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49	Gopalasamuthiram	Cheranmadevi	Western side of the bridge	40	60
50	Gopalasamuthiram	Cheranmadevi	Southwest side of bridge	50	50
51	Gopalasamuthiram	Cheranmadevi	Northern side of bridge at west	70	30
52	Gopalasamuthiram	Cheranmadevi	Northern side of bridge at west	70	30
53	Karunkadu	Tirunelveli	Mandampam renovated as temple	80	20
54	Thenpathu	Tirunelveli	Western side of river bank	60	40
55	Thenpathu	Tirunelveli	Western river bank near brick kiln	80	20
56	Melanatham	Palayamkottai	Mandapam near the bridge	20	80
57	Meltanatham	Palayamkottai	Second Mandapam near the bridge	20	80
58	Melanatham	Palayamkottai	Mandapam at eastern side	70	30
59	Kurukkuthurai	Tirunelveli	First Mandapam at South	80	20
60	Kurukkuthurai	Tirunelveli	Second Mandapam from south	60	40
61	Kurukkuthurai	Tirunelveli	Third Mandapam from south	70	30
62	Kurukkuthurai	Tirunelveli	Fourth mandapam	85	15
63	Kurukkuthurai	Tirunelveli	Fifth mandapam	80	20
64	Kurukkuthurai	Tirunelveli	Sixth mandampam	40	60
65	Kurukkuthurai	Tirunelveli	Mandapam near Murugan temple	50	50
66	Kokkirakulam	Tirunelveli	Mandapam from south	60	40
67	Kokkirakulam	Tirunelveli	Second Mandapam	60	40
68	Kokkirakulam	Tirunelveli	Third Mandapam	90	10



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69	Kokkirakulam	Tirunelveli	Thaiposa Mandapam	75	25
70	Kokkirakulam	Tirunelveli	Fourth mandapam	20	80
71	Kokkirakulam	Tirunelveli	Fifth mandapam	Nil	100
72	Kokkirakulam	Tirunelveli	Mandapam at eastern side of the river	80	20
73	Vannarapettai	Tirunelveli	Mandapam at eastern side of the river	40	60
74	Vannarapettai	Tirunelveli	Second mandapam at eastern side	50	50
75	Manimoortheeswaran	Tirunelveli	Mandapam at major portion of river near the bridge	70	30
76	Arukankulam	Tirunelveli	Mandapam at Southern riverbank	70	30
77	Balamadai	Tirunelveli	Mandapam at northern river bank	75	25
78	Naranammal Puram	Tirunelveli	Mandapam at south side bridge	80	20
79	Naranammal puram	Tirunelveli	Second mandapam	25	75
80	Naranammal puram	Tirunelveli	Mandapam at northern river bank	Nil	100
81	Manapadai veedu	Palayamkottai	Mandapam at western side of the village	60	40
82	Manapadai veedu	Palayamkottai	Second mandapam	75	25
83	Manapadai veedu	Palayamkottai	Mandapam at northern riverbank	75	25



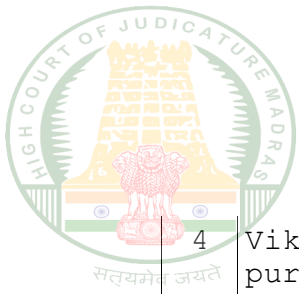
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84	Srivaigundam	Srivaigundam	Mandapam at bank of Theppakulam	75	25
85	Alwar Thirunagari	Eral	Sangu Mandapam	70	30
86	Thiruparangu Senallur	Eral	Padhithurai Mandapam	80	20

iv.The mandapams were established several hundreds of years ago for the sake of pilgrims and for performing rituals. These mandapams and padithurais on the bank of river Tamirabarani are having heritage value, which needs to be preserved from getting damaged.

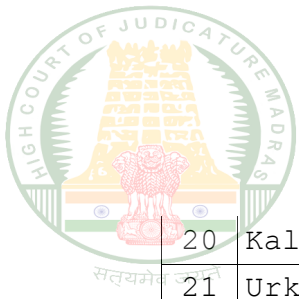
v.There are 76 padithurais in river Tamirabarani and out of which 30 are in usage and 46 are in damaged condition. He has also furnished the list of those padithurais and its present condition, which reads as follows:

S. No	Area	Taluk	Location	Good Level in %	Damaged Level in %
1	Papanasam	Ambasamudram	Kalpadithurai	85	15
2	Papanasam (near temple)	Ambasamudram	Kalpadithurai	80	20
3	Papanasam (near temple)	Ambasamudram	Kalpadithurai	75	25



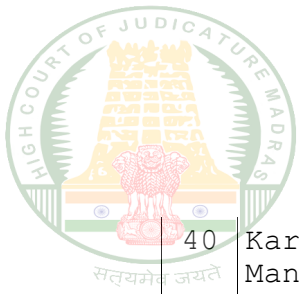
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4	Vikramasinga puram	Ambasamudram	Cement Padithurai	90	10
5	Vikramasinga puram (near bridge)	Ambasamudram	Padithurai craved in rocks	85	15
6	Aladiyur	Ambasamudram	Cement Padithurai	80	20
7	Aladiyur	Ambasamudram	Kalpadithurai	90	10
8	Aladiyur Eastern side of bridge	Ambasamudram	Cement Padithurai	80	20
9	Sankarankovil Ambasamudram	Ambasamudram	Kalpadithurai	75	25
10	Ambasamudram (Anjaneyar Temple)	Ambasamudram	Kalpadithurai	50	50
11	Ambasamudram Riverbank at South	Ambasamudram	Kalpadithurai	40	60
12	Ambasamudram (Mandapa padithurai south side)	Ambasamudram	Kalpadithurai	50	50
13	Ambasamudram (Kalmandapapadi near Kasinathar Temple)	Ambasamudram	Kalpadithurai	60	40
14	Ambasamudram (near Kasinatha temple)	Ambasamudram	Kalpadithurai	80	20
15	Ambasamudram (Mandapa padithurai)	Ambasamudram	Kalpadithurai	85	1510
16	Ambasamudram (Mandapapadi at southern bank)	Ambasamudram	Kalpadithurai	90	10
17	Ambasamudram near bridge	Ambasamudram	Cement padithurai	80	20
18	Kallidaikuruchi	Ambasamudram	Kalpadithurai	60	40
19	Kallidaikuruchi	Ambasamudram	Kalpadithurai	60	40



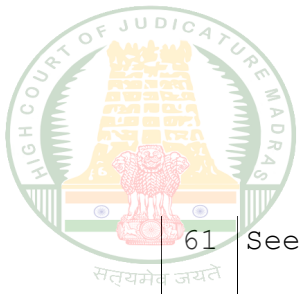
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20	Kallidaikuruchi	Ambasamudram	Kalpadithurai	90	10
21	Urkadu	Ambasamudram	Kalpadithurai	90	10
22	Urkadu	Ambasamudram	Kalpadithurai	90	10
23	Athanallur	Cheanmadevi	Kalpadithurai	75	25
24	Athanallur (opposite river bank)	Cheanmadevi	Kalpadithurai	70	10
25	Thirupudai Maruthr	Cheanmadevi	Kalpadithurai	85	15
26	Thirupudai Maruthr (opposite riverbank)	Cheranmadevi	Kalpadithurai	50	50
27	Thirupudai Maruthr (opposite riverbank)	Cheranmadevi	Cement padithurai	60	40
28	Then Thirupuvanam	Cheranmadevi	Kalpadithurai	50	40
29	Then Thirupuvanam	Cheranmadevi	Kalpadithurai	75	25
30	Sakthikulam	Cheranmadevi	Kalpadithurai	80	20
31	Cheranmadevi (Bakthavachala swami temple)	Cheranmadevi	Kalpadithurai	50	50
32	Cheranmadevi (Ammainatha Swami Temple)	Cheranmadevi	Kalpadithurai	60	40
33	Cheranmadevi	Cheranmadevi	Kalpadithurai	50	50
34	Melakallur	Tirunelveli	Kalpadithurai	90	10
35	Melakallur	Tirunelveli	Cement padithurai	80	20
36	Kodaganallur	Tirunelveli	Kalpadithurai	90	10
37	Kodaganallur	Tirunelveli	Cement padithurai	75	25
38	Kodaganallur	Tirunelveli	Kalpadithurai	80	20
39	Karisoolntha Mangalam	Cheranmadevi	Kalpadithurai	75	25



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40	Karisoalntha Mangalam	Cheranmadevi	Cement padithurai	80	20
41	Gopalasamudram	Cheranmadevi	Kalpadithurai	75	25
42	Gopalasamudram	Cheranmadevi	Kalpadithurai	70	30
43	Karunkadu	Tirunelveli	Kalpadithurai	90	10
44	Thiruvengkatanathapuram	Tirunelveli	Cement padithurai	85	15
45	Melanatham	Tirunelveli	Kalpadithurai	90	10
46	Kurukkuthurai	Tirunelveli	Kalpadithurai	70	30
47	Kurukkuthurai	Tirunelveli	Kalpadithurai	70	30
48	Kurukkuthurai	Tirunelveli	Cement Padithurai	80	20
49	Kurukkuthurai (murugan Temple)	Tirunelveli	Kalpadithurai	80	20
50	Kurukkuthurai (murugan Temple)	Tirunelveli	Kalpadithurai	80	20
51	Kokkirakulam C.N.Village	Tirunelveli	Cement padithurai	90	10
52	Kokkirakulam Eastern part	Tirunelveli	Kalpadithurai	90	10
53	Kokkirakulam western part	Tirunelveli	Kalpadithurai	90	10
54	Vannarapetai	Tirunelveli	Kalpadithurai	40	60
55	Vannarapetai	Tirunelveli	Cement padithurai	90	10
56	Manimoorthiswar am	Tirunelveli	Kalmandapa padithurai	80	20
57	Arukankulam	Tirunelveli	Kalpadithurai	75	25
58	Narayanammalpur am	Tirunelveli	Kalpadithurai	50	50
59	Narayanammalpur am	Tirunelveli	Cement Padithurai	90	10
60	Narayanammalpur am (Eastern part)	Tirunelveli	Kalpadithurai	75	25



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61	Seevalaperi	Palaymkottai	Cement Padithurai	75	25
62	Maruthur Anaikattu Western Part	Palaymkottai	Cement Padithurai	50	50
63	Murappanadu	Srivaigundam	Cement Padithurai	90	10
64	Murappanadu	Srivaigundam	Cement Padithurai	80	20
65	Nanalkadu	Srivaigundam	Cement Padithurai	75	25
66	Srivaigundam	Srivaigundam	Cement Padithurai	80	20
67	Srivaigundam Anaikattu part	Srivaigundam	Kalapdithurai	90	10
68	Srivaigundam	Srivaigundam	Kalpadithurai	90	10
69	Alwarthirunagari	Eral	Kalpadithurai	80	20
70	Alwarthirunagari (II)	Eral	Kalpadithurai	80	20
71	Alwarthirunagari (III)	Eral	Kalpadithurai	75	25
72	Alwarthirunagari (in front of Sangumandapam)	Eral	Cement padithurai	70	30
73	Thiruparangusalur	Eral	Kalpadithurai	80	20
74	Eral	Eral	Cement Padithurai	90	10
75	Athur	Eral	Cement Padithurai	75	25
76	Serthamangalam	Eral	Cement Padithurai	90	10

4.The learned Counsel for the petitioner by referring to the various texts has highlighted the holiness of this

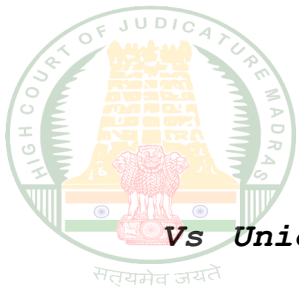


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river Tamirabarani and the importance of these heritage structures. Apart from its holiness, the river caters drinking water to several cities and towns, such as Tirunelveli, Palayamkottai, Vikramasingapuram, Ambasamudram, Cheranmahadevi, Srivaikundam, Kovilpatti, Thoothukudi, etc., This river originates from Western Ghats and travels around 125 Kms in the hills and plains. Further it also irrigates 86,000 acres of lands in Tirunelveli and Thoothukudi Districts.

5.The learned Counsel by referring to the photographs filed along with the typed set of papers has pointed out the present condition of the river Tamirabarani and the extent of pollution and has submitted that due to mixing of sewage in Vikramasingapuram, Ambasamudram, Kallidaikuruchi, Mela Cheval from the mills and industries, the river water of Tamirabarani is not suitable for drinking and bathing.

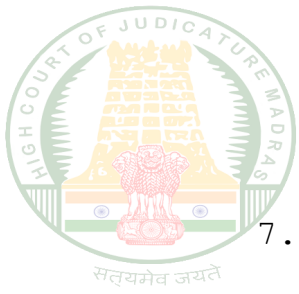
6.The learned counsel has also referred to the orders of the Hon'ble Supreme Court in ***Paryavaran Suraksha Samiti***



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Vs Union of India and ors reported in ***2017 5 SCC 326*** and

submits that the Hon'ble Supreme Court in the said judgment has issued various directions and also fixed the deadline for waste water treatment system and the Hon'ble National Green Tribunal [NGT] is also monitoring the implementation of the orders of the Hon'ble Supreme Court by issuing various directions from time to time. By referring the orders of NGT in OA.No.606 of 2018, dated 04.05.2023 the learned Counsel submits that for non implementation of the Municipal Solid Waste Management Rules, 2016 and other environmental issues, the Hon'ble NGT has imposed a sum of Rs.400 crores on the State of Bihar that the Government of Bihar has failed to manage the liquid and the solid waste management in violation of the mandate of the orders of the Hon'ble Supreme Court and NGT. By referring these orders, the petitioner has also filed a miscellaneous petition in WMP(MD)No.15720 of 2023 for direction to the respondents 5 to 8 and 10 to 16 to pay compensation for discharge of sewage water into the river Tamirabarani.

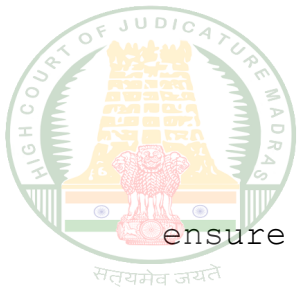


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7. In response to this writ petition, a counter affidavit was filed on behalf of the 1st respondent Executive Engineer, Southern River Division, Central Water Commission, Ministry of Water Resource, Government of India that the 1st respondent has primarily involved in laying down policy guidelines for the integrated and management of the country's water resource and management of water as a national resource and they are not having any role to play in the relief sought for in this writ petition. It is also claimed that the 1st respondent is not statutorily empowered for pollution control in rivers except river Ganga. According to him as per the National Mission for Clean Ganga, this respondent is mandated for rejuvenation and abatement of pollution in river Ganga.

8. The 4th respondent has taken a stand that this river Tamirabarani is maintained by Water Resource Organisation and the repair works are carried out as and when required by the local people and also by depending upon the availability of funds. Funds are provided by the government only for the maintenance of anaicut, canals and the tank fed by the river Tamirabarani. Their primary function is to

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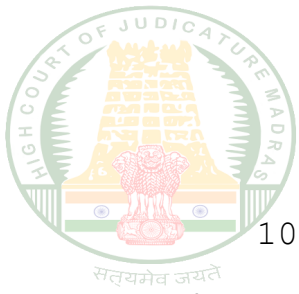


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ensure the supply of irrigation water to the Ayacut lands.

They have not been provided with any funds for the restoration of these mandapams and padithurais in the river Tamirabarani. According to him these mandapams and padithurais are maintained by the Hindu Religious and Charitable Endowments Department and by the local bodies. With regard to letting of sewage water into the river Tamirabarani, he claims that the Water Resource Organisation has already addressed this issue by making a request to the local bodies viz. Panchayats, Panchayat Unions, Municipalities and Corporations to make necessary arrangements to dispose of the sewage water into the river after it is treated. He also states that the heritage mandapams and padithurais were constructed in the olden days, renovations of these heritage structures have to be carried out only by the HR and CE Department and the WRO is not having any funds for the same.

9. Though the Secretary to the HR and CE Department has been arrayed as a party, there is no response from the HR and CE Department.

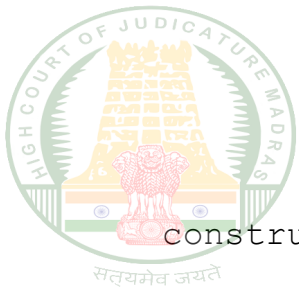


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10.The Commissioner Tirunelveli Corporation /
7th respondent herein has filed a counter affidavit that
they are maintaining 55 wards both sides of river
Tamirabarani. Underground sewage system was completed in
10 wards and partially completed in 35 wards.
They are doing phase-II project at a cost of Rs.440.19
crores for the remaining wards and after completion of this
phase-II and phase-III projects, drainage would be fully
disposed to sewerage system and in the meantime they have
proposed to collect the drainage in a common collecting
system, it would be let into the nearest underground sewage
system, thereby they would prevent the drainage mixing in
the river Tamirabarani.

11.The respondents 10 to 16 though represented through
Counsel, they have not filed any counter affidavit.

12.River Tamirabarani is an important river of this
state which emanates from Western Ghats. It has
significance in epics and in several Tamil literatures.
People treat this river as a holy river, as the river
Ganges and Cauveri. The number of mandapams and padithurais



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constructed on the bank of this river Tamirabarani would expose how this river Tamirabarani was worshipped and celebrated. The petitioner has conducted a detailed study and has placed the materials about the present condition of the mandapams and the padithurais. The said contentions of the petitioner are not denied by the respondents. This river is under the maintenance of WRO, PWD. They have expressed their difficulty that they do not have any fund and therefore, they cannot maintain these mandapams and padithurais. The Secretary, PWD has in his counter affidavit stated that these mandapams have to be maintained only by the HR and CE Department and the padithurais have to be maintained by the local bodies.

13.The petitioner has raised serious allegations as to the sewage let into the river Tamirabarani. It is also not denied by the respondents. The Secretary, PWD claims that they have addressed this issue to the local bodies and it is for the local bodies to take initiatives to prevent the mixing of sewage. The Tirunelveli Corporation claims that they constructed underground drainage system and they are

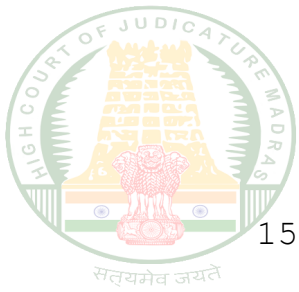


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taking necessary steps to prevent mixing of sewage water into the river Tamirabarani.

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14.The petitioner has filed a status report along with WMP(MD)No.15720 of 2023 listing out the the places where the sewage are still let into the river Tamirabarani. The petitioner has also impleaded the respective local bodies, who are letting sewage into the river Tamirabarani. Several industries are exploiting this river by mixing their industrial wastes. The photographs placed before this Court along with the typed set of papers expose the present condition of the river, which needs to be given importance and to be prevented from being polluted anymore. This river is a source for irrigation of 86,000 acres of land apart from other drinking water projects. It not only caters to the human being but also for all the living beings like birds, livestock, water creatures and also for plants, trees, etc., in Tirunelveli and Thoothukudi districts.

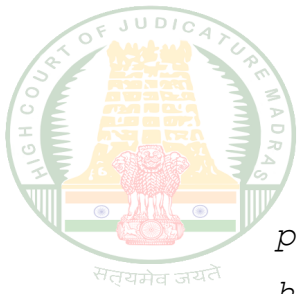


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15.The petitioner has placed reliance upon the following decisions:

i.In **Paryavaran Suraksha Samiti Vs Union of India and ors** reported in **2017 5 SCC 326**. wherein the Hon'ble Supreme Court has held as follows:

"10. Given the responsibility vested in Municipalities under Article 243 of the Constitution, as also, in item 6 of the 12th Schedule, wherein the aforesaid obligation, pointedly extends to "public health, sanitation conservancy and solid waste management", we are of the view, that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the concerned municipalities (and/or local bodies), cannot be permitted to shy away, from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243X and 243Y of the Constitution. It will be open to the concerned municipalities (and/or local bodies), to evolve norms to recover funds, for the purpose of generating finances to install and run, all the "common effluent treatment plants", within the

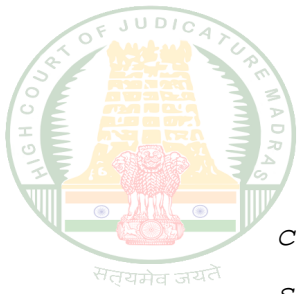


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purview of the provisions referred to hereinabove. Needless to mention, that such norms as may be evolved for generating financial resources, may include all or any, of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the concerned State Government (Union Territory), through the Secretaries, Urban Development and Local Bodies respectively, (depending on the location of the respective common effluent treatment plant). The norms for generating funds, for setting up and/or operating the 'common effluent treatment plant' shall be finalized, on or before 31.03.2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the concerned State Governments (or the Union Territories), shall cater to the financial requirements, of running the "common effluent treatment plants", which are presently dis-functional, from their own financial resources.

11. Just in the manner suggested hereinabove, for the purpose of setting up of "common effluent treatment plants", the concerned State Governments (including, the



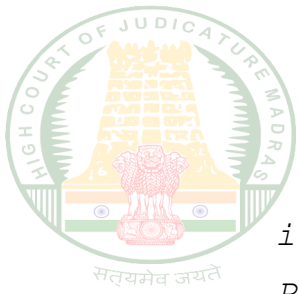
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concerned Union Territories) will prioritize such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.

12. We are of the view, that in the manner suggested above, the malady of sewer treatment, should also be dealt with simultaneously. We therefore hereby direct, that 'sewage treatment plants' shall also be set up and made functional, within the time lines and the format, expressed hereinabove.

13. We are of the view, that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We therefore hereby provide, that the directions pertaining to continuation of industrial activity only when there is in place a functional "primary effluent treatment plants", and the setting up of functional "common effluent treatment plants" within the time lines, expressed above, shall be of the Member Secretaries of the concerned Pollution Control Boards. The Secretary of the Department of Environment, of the concerned State Government (and the concerned Union Territory), shall be answerable in case of default. The concerned Secretaries to the Government shall be responsible of monitoring the progress, and



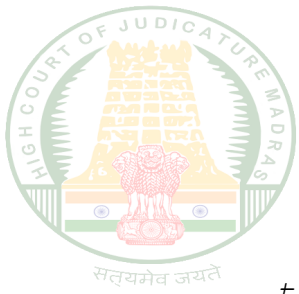
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issuing necessary directions to the concerned Pollution Control Board, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data, and shall furnish the same to the Bench of the jurisdictional National Green Tribunal.

14. To supervise complaints of non-implementation of the instant directions, the concerned Benches of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The above mentioned case files, will be listed periodically. The concerned Pollution Control Board is also hereby directed, to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.

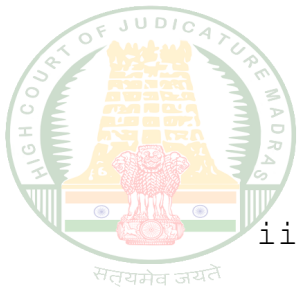
15. Liberty is granted to private individuals, and organizations, to approach the concerned Bench of the jurisdictional National Green Tribunal, for appropriate orders, by pointing out deficiencies, in implementation of the above directions.



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16. It however needs to be clarified, that the instant directions and time lines, shall not in any way dilute any time lines and directions issued by Courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones expressed through the directions recorded above. It is clarified, that the time lines, expressed hereinabove will be relevant, only in situations where there are no prevalent time line(s), and also, where a longer period, has been provided for.

17. It would be in the interest of implementation of the objective sought to be achieved, to also require each concerned State (and each, concerned Union Territory) to make provision for "online, real time, continuous monitoring system" to display emission levels, in the public domain, on the portal of the concerned State Pollution Control Board. We are informed, that at least three State Governments have already adopted the aforesaid measures. Such measures shall be put in place by all the concerned State Governments (including, the concerned Union Territories), within six months from today."

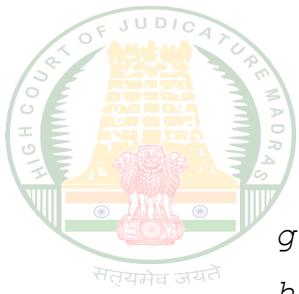


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ii. The Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A.No.116 of 2014 (IA.No.195 of 2022), dated 13.09.2022, imposed a cost of Rs.110/- crore on the State of Bihar under the polluters pay principle. In another application in OA.No.213 of 2023 dated 25.07.2022 directions were issued to all the State Governments and Union Territories and the same is extracted as under:

"L. Conclusion

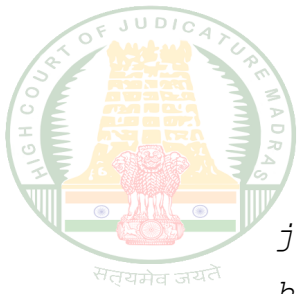
33. In the light of above, way forward has to be in according high priority to the subject and strict monitoring and higher levels of the Administration in the States as well as in Central Government by constituting specialised monitoring cells fixing accountability for deviation from laid down timelines. As already noted, issue of solid waste management has been monitored from 1996 to 2014 by the Hon'ble Supreme Court and by this Tribunal for the last nine years. There are statutory Rules and policies like swachh bharat but action on the ground is inadequate. There are mountains of garbage generating methane and other gases which are source of diseases and deaths, apart from 21 occupying huge valuable public resource. Our conclusion is that enacting laws and directions of Courts/Tribunals are not substitute for good



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governance and unless the Administration accords high priority of the subject, undesirable situation as found may not be remedied. Taking people on board and change of mindset is need of the hour. Similarly, not preventing sewage discharge into the sources of drinking water is offence under the criminal law as well as under the Water Act, 1974. Discharge of sewage into drains/rivers/water bodies results in scarcity of drinking water for all living beings apart from degradation of environment and damage to public health. Large number of persons suffer due to water pollution. The matter has been monitored by the Hon'ble Supreme Court in the context of pollution of Ganga and Yamuna for several decades and lastly passed order dated 22.2.2017 in Paryavaran Surakhsha fixing deadline which has been monitored by the Tribunal in the last six years. Gaps in compliance have been noted earlier. Water quality of large number of rivers (including Ganga and Yamuna), lakes, coastal areas and other water bodies are receiving such pollution. This needs to be addressed on war footing, using indigenous technology wherever viable or such other technology but no drop of sewage can be allowed to be mixed in drinking water. Timelines are deviated without accountability. There is no



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justification for delay in remedial action having regard to adverse impact on biodiversity and citizens' right of access to drinking water. We need not repeat the steps for remedial action which are mentioned in detail in each of the orders of the subject passed separately for all the States sand available on the website of this Tribunal. Meaningful implementation of citizens right to clean environment, which is part of right to life, and which is one of the significant facets of sustainable development cannot be wished away. Apart from concerned States/UTs who are responsible for executing plans for waste treatment under the Solid Waste Management Rules, 2016, Central Ministries - MoEF&CC, Urban Affairs, Rural Development, Chemicals and Fertilizers and Agriculture have also to play their role as pointed out in the orders of the Tribunal. With regard to liquid waste management also, the Central Government Ministries such as Jal Shakti, MoEF&CC, Urban Development also have role. We hope that the said Ministries of Central Government will perform their statutory obligation under the rules, apart from monitoring compliance by the concerned States/UTs. We expect the concerned Ministries of Central Government to file their respective action taken reports in the matter



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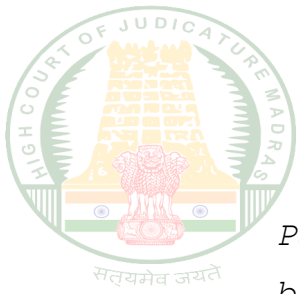
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within three months with the Registrar General of this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If found necessary, the Registrar General, NGT may place the matter before the bench for further directions."

3.The Tribunals had directed the Chief Secretaries of the State to take action in case of violations and ensure that the provisions of Solid Waste (Management and Handling) Rules, 2016 must be strictly complied with.

iii.A Division Bench of this Court in **K.Mani Vs The District Collector, Madurai and others** [WP (MD) No.11730 of 2022, dated 21.06.2023] has imposed a cost of Rs.1,00,000/- to the government for polluting a water body. The relevant portions of the judgment read as follows:

"3.Pursuant to the earlier directions issued by this Court, the Superintendent Engineer, PWD, WRD, Periyar Vaigai Basin, had filed a status report on 28.06.2022, wherein, he had clearly admitted that the Kalampatti Village

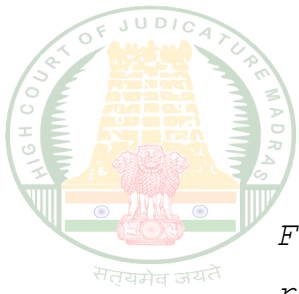


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Panchayat had constructed a drainage channels on both sides of the village road and had directly connected with the irrigation channel in question. It is also stated that because of such letting in a drainage water, the channel got polluted up to the length of 100 meters from the road culvert near Kallampatti Village Panchayat area. Alarmed by the report, we have directed the District Collector, Madurai, to ensure that the mixing of drainage water in the irrigation channel is stopped forthwith. We have directed the District Collector to ensure that the drainage channels were blocked within 24 hours. Pursuant to our directions, the District Collector, Madurai, has filed a report stating that the work for construction of vertical soak pit is in progress and the sewage or drainage water is entirely stopped from mixing from the channel.

4.Considering the said report, the writ petition is disposed of. Since the Executive Engineer, WRD, PWD, has filed the report stating that the channel has been polluted to the extent of 100 meters, we impose the costs of Rs.1,00,000/- (Rupees One Lakh only) to be paid by the Government to the Chief Justice's Relief



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Fund. The Government will be at liberty to recover the said costs from the persons who were responsible for construction of drainage channel and connecting it to the irrigation channel. No costs. Consequently, the connected miscellaneous petition is closed."

16.Considering the importance of the water bodies and its preservation and the consequences of the water bodies being polluted, the Hon'ble Supreme Court has already passed an order in ***Paryavaran Suraksha Samiti's case*** cited supra, wherein a series of directions were issued. Following the same, the Hon'ble National Green Tribunal has also issued various directions and also imposed cost on the polluters pay policy. The Chief Secretaries of all the States including the State of Tamil Nadu were already a party to those proceedings.

17.In view of the above, this writ petition is disposed of with the following directions:

i.The Chief Engineer, WRO, PWD, Tirunelveli shall conduct a spot inspection based on the data provided by



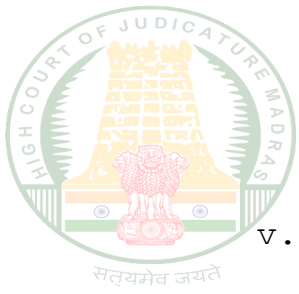
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this petitioner on the places where sewage is let into river Tamirabarani and shall address the same to the respective local bodies, who are responsible for letting in sewage, with a request to stop further polluting the river Tamirabarani.

ii.The respective local bodies / respondents 10 to 14 also have to verify and take initiatives to prevent the sewage mixing into river in a warfooting basis by constructing any permanent structures or any other alternative remedies and ensure that no more sewage is mixed into river Tamirabarani.

iii.The local bodies have to complete this exercise within a period of three months from the date of receipt of a copy of this order.

iv. Letting of sewage water into river is liable to be prosecuted with penalty and any further delay in preventing the same would be viewed seriously and if any default is found, it is made clear penalty will be imposed.



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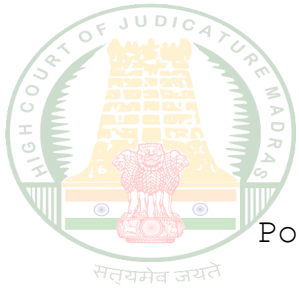
v.The respective local bodies shall file their action taken reports before this Court on the expiry of the three months.

vi.The Joint Commissioner, HR and CE Department, Tirunelveli shall identify the Mandapams in river Tamirabarani and forward the same to the Commissioner, HR and CE Department and to find out the possibility of maintenance of those Mandapams by the HR and CE Department.

vii.The Chief Engineer, WRO, shall give permission to the HR and CE Department to maintain these Mandapams by the HR and CE Department itself. The HR and CE Department shall file a compliance report before this Court after expiry of three months.

viii.The respective local bodies shall also find out the possibility of maintaining and renovating the Padithurais within their limits and to file a report before this Court.

ix.The Chief Engineer, WRO, shall give permission to the respective local bodies to maintain the Padithurais and to carry out renovation work. No costs. Consequently connected miscellaneous petitions are closed.



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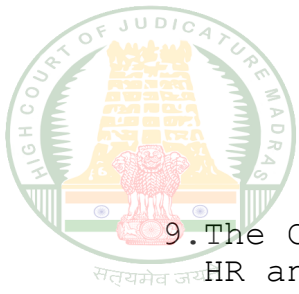
[GRSJ] [BPJ]
11.03.2024

Index : Yes / No
NCC : Yes / No

TO

- 1.The Principal Secretary /
the Director,
The Ministry of Water Resources,
River Development and Ganga Rejuvenation,
Shram Shakti Bhavan, Rafi Marg, New Delhi.
- 2.The Principal Secretary,
Tamil Nadu Tourism, culture
and Endowment Department,
Fort St. George, Chennai - 600 009.
- 3.The Principal Secretary,
HR and CE Department,
Fort St.George,Chennai - 600 009.
- 4.The Principal Secretary,
Public Works Department,
Chennai - 600 009.
- 5.The District Collector,
Tirunelveli.
- 6.The District Collector,
Thoothukudi.
- 7.The Commissioner,
Tirunelveli Corporation,
Tirunelveli District.
- 8.The Chief Engineer,
Public Works Department,
Tamirabarani Division,
Samathanapuram,Palayamkottai,
Tirunelveli District.

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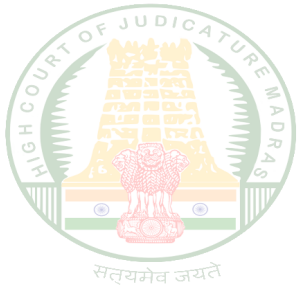


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9.The Commissioner,
HR and CE Department.
Chennai.

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- 10.The Municipal Commissioner,
Ambasamudram Municipality,
Tirunelveli District.
- 11.The Municipal Commissioner,
Vikramasingapuram Municipality,
Tirunelveli District.
- 12.The Block Development Officer,
Cheranmahadevi, Tirunelveli District.
- 13.The Chairman,
Srivaikundam Town Panchayat,
Thoothukudi District.
- 14.The Chairman,
Alwarthirunagari Town Panchayat,
Tirunelveli District.
- 15.The Chairman,
Kallidaikuruchi Town Panchayat,
Tirunelveli District.
- 16.The Chairman,
Eral Town Panchayt,
Thoothukudi District.



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**G.R.SWAMINATHAN, J
and
B.PUGALENDHI, J**

dsk

**WP (MD) No.18402 of 2018
and
WMP (MD) No.15720 of 2023**

11.03.2024