

(2005) 09 MAD CK 0126

In the Madras High Court

Case No : Writ Petition No. 4655 of 2005 and WPMP No. 4984 of 2005

Kamatchi

APPELLANT

Vs

The Chairman, Tamil Nadu Pollution Control Board, The
District Collector, The District Environmental Engineer and
Regency Power Corporation Ltd.

RESPONDENT

Date of Decision : 22-09-2005

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2005) 09 MAD CK 0126

Hon'ble Judges : S. Sardar Zackria Hussain, J;P. Sathasivam, J

Bench : Division Bench

Advocate : M. Ajmal Khan, for the Appellant; A.L. Somayaji for Rita Chandrasekar, for Pollution Control Board, S. Karthikeyan, for R-5 in Writ Petition.7020/2005 and for R-4 in Writ Petition.4655 of 2005 and C. Selvaraj, Govt., for RI and R3 in W.P.7020/2005 and for R-2 in W.P. No. 4655/2005 Common Order ?, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—By consent of all the parties, these writ petitions are taken up for disposal. In W.P. No. 4655/2005 one Kamatchi, an agriculturist and resident of Kalugoorani village, Ramanathapuram District seeks to issue a writ of Mandamus forbearing Tamil Nadu Pollution Control Board. District Collector and District Environmental Engineer, Tamil Nadu Pollution Control Board, Virudhunagar from permitting Messrs. Regency Power Corporation Ltd., to commission power plant at Kalugoorani village, Ramanathapuram District without conducting public hearing afresh in accordance with G.O. Ms. No. 487 Environment and Forest (EC III) dated 22-12-1997 so as to enable the residents of the village to put forth their objections.

2. The very same Petitioner in W.P. No. 7020/2005 challenges the order passed by Member Secretary, Tamil Nadu Pollution Control Board, Chennai in his proceedings L.R. No. TI1/ TNPCB/f.792/ RMD/2005 dated 28-6-2005, granting no

objection certificate for setting up of Thermal Power Plant and quash the same as illegal.

3. The case of the Petitioner in both the writ petitions are briefly stated hereunder:

According to him, Kalugoorani is a small village situate on the Ramanathapuram-Rameshwaram Road in Ramanathapuram District. The entire village depends on agriculture. The village has a plenty of good ground water. The villagers have come to know of setting up of Thermal power plant by M/s. Regency Power Corporation Limited, a private limited company at Kalugoorani village. The District Environmental Engineer, Tamil Nadu Pollution Control Board, Virudhunagar published a public notice in the Newspaper for a public hearing scheduled to be held on 15-4-2005 in the Office of the District Collector. The said public notice invited objections, if any from the general public against setting up of power plant at Kalugoorani village.- M/s. Regency Power Corporation Limited appears to have purchased land to an extent of 7.99 hectares in various survey numbers at Kalugoorani village, Ramanathapuram Taluk with an intent to set up natural gas based Thermal Power Plant in the said village. The proposed site for Thermal Power plant situates within the vicinity of residential locality, thus exposing danger to the residents of Kalugoorani village. In the event of allowing to set up power plant, the agriculture, the only occupation of the villagers will be affected. Hence, the Petitioner and other residents of that village attended the public hearing on 15-3-2005. However, on account of protest from the villagers leading to a mess, the District Collector closed the public hearing abruptly and announced the participants that no decision will be taken against the interest of the villagers.

4. The public hearing is mandatory in so far as the industries or projects covered in Schedule (1) of Environmental Impact Assessment Notification, 1994 (hereinafter referred to as EIA Notification). The State Government in furtherance of the said notification issued in G.O. Ms. No. 487 Environmental and Forest (EC. III) dated 22-12-1997 constituting a public hearing panel for Ramanathapuram District. The panel consists of Joint Chief Environmental Engineer/District Environmental Engineer, District Collector, Deputy Secretary/Under Secretary to Government (Environmental and Forest Department) and Director of Environment and 5 persons including M.L.A. and the President of Panchayat. In the public hearing conducted by the District Collector on 15-3-2005, the District Collector, Director of Environmental Engineer and 3 persons from the locality alone were participated and the Director of Environment and the Deputy Secretary to the Government being members of the public hearing panel were conspicuous by their absence. Further, the public hearing was terminated immediately on the protest from the villagers.

However, the Government and the Pollution Control Board were influenced by the Regency Power Corporation for issuance of clearance certificate. At this state, the Petitioner filed W.P. No. 4655/2005. Pending disposal of the said writ petition, the

Member Secretary, Tamil Nadu Pollution Control Board, Chennai in his proceedings dated 28-6-2005 granted no objection certificate for setting up of Thermal Power Plant with capacity 58 M.W. To produce Electrical Energy at Kalugoorani village. Questioning the same, the Petitioner has filed the subsequent writ petition, namely, W.P. No. 7020/2005. Though the District Environmental Engineer, Tamil Nadu Pollution Control Board/4th Respondent in W.P. No. 7020/2005 submitted a report dated 28-03-2005 that if the Thermal Power Plant is put up at the same location without any modification, it shall give hindrance to the public life. The Member Secretary, Tamil Nadu Pollution Control Board has chosen to issue no objection certificate to Regency Power Corporation. The Pollution Control Board has not complied with the Government Order in respect of public hearing and granted permission to locate the power plant which is situated in residential locality of Bharathidhasan Nagar; hence grant of no objection certificate without considering the village of the public is illegal and liable to be quashed.

5. Member Secretary, Tamil Nadu Pollution Control Board has filed a counter affidavit for himself and for Chairman, Tamil Nadu Pollution Control Board in W.P. No. 4655/2005 wherein it is stated that the Unit of M/s. Regency Power Corporation Limited, Kalugoorani, Ramanathapuram Taluk is a proposed Natural Gas based Power plant. The unit has applied for the consent of the Board on 03-01-2005 and furnished the additional particulars on 10-02-2005. Since the Unit is a Thermal power plant with investment of Rs. 185.40 crores, it attracts the provisions of the EIA Notification, 1994. As per the said notification amended on 10-4-1997 public hearing has been made as mandatory for the projects attracting the EIA Notification. As per the procedure, the Tamil Nadu Pollution Control Board caused notice for environmental public hearing which was published in two news papers viz., Indian Express and Dinathanthi on 12-2-2005. The public hearing meeting was held on 15-3-2005 at 3.30 P.M. at District Collector's chamber, Ramanathapuram. The Government of Tamil Nadu in its G.O. Ms. No. 487 Environment and Forests (EC-HI) Department dated 22-12-1997 and Government letter No. 75 E and F (EC-3) Department dated 21-3-1998 had constituted public hearing panels for each districts in Tamil Nadu. The Government of Tamil Nadu in its G.O. Ms. No. 37 Environment and Forests Department (EC-3) dated 18-2-2002 constituted the revised Committee for Public Hearing Panel for Ramanathapuram District among other districts in supersession of the orders issued in G.O., dated 22-12-1 997 and Government letter dated 21-3-1998.. The public hearing on 15-3-2005 for the unit of M/s. Regency Power Corporation Limited was conducted by the Public hearing panel reconstituted vide Company, dated 18-2-2002. The public hearing panel has completed the said public hearing and furnished the minutes of the said hearing to the Tamil Nadu Pollution Control Board. The public hearing was conducted and completed as per the procedure stipulated in the EIA Notification. The subject to grant of "NOC to the said unit was placed before the Board along with the minutes of the public hearing in its meeting on 22-6-2005. The Board resolved to

approve the grant of NOC to the unit subject to the conditions and one of the conditions is that the unit shall leave a buffer zone of 150 metres from the Bharadasan Nagar and Kalugoorani habitation. As per the EIA Notification as amended on 10-4-1997, the unit has to obtain environmental clearance from the State Government. Consent for establishment will be issued to the unit only after the unit obtains the environmental clearance and furnishes the same to the Board and hence consent for establishment has not been issued to the unit.

6. Member Secretary, Tamilnadu Pollution Control Board, Chennai-32 has filed a counter affidavit on behalf of the Pollution Control Board and District Environmental Engineer, Tamil Nadu Pollution Control Board, Virudhunagar in W.P. No. 7020/2005. Apart from the information furnished in the counter filed in W.P. No. 4655/2005, the Member Secretary has stated that the public hearing was conducted for the unit of M/s. Regency Power Corporation Limited on 15-3-2005 by the public hearing panel panel reconstituted vide G.O. Dated 18-2-2002. In the said meeting, Thiru K. Sellamuthu, I.A.S., District Collector, Ramanathapuram, Thiru C. Muthukani, District Environmental Engineer in-charge Tamil Nadu Pollution Control Board, Virudhunagar, Dr. T. Aravindaraj, Thiru M. Jeyakumar, Municipal Councillor, Ramanathapuram, Thiru S.P. Kalimuthu, Chairman, Kamudhi Panchayat Union and Thiru M.K.K. Thangamarakkayar alias Se-Ku, Abdul Kadar, Chairman, Mandapam Town Panchayat participated. The unit requires 245 KLD of water for its activities. It had identified a water drawal source at S. No. 60 Achun-davayal village which is about 14 KM away from the project site. The Executive Engineer, Public Works Department, Ground Water Division, Karaikudi has recommended that the said source is suitable for bore location. The unit has been stipulated to provide mechanical evaporator to dispose the R.O. Reject. The unit proposes to treat the other sources of effluent and utilise on land for irrigation. The unit uses natural gas as fuel. Hence the level of air pollutants suspended particulate matter and sulphur dioxide will be less. However, there will be oxides of nitrogen in its emission. The unit proposes to control the said emission by water spraying and through the process control.

7. The southern side of the unit Kalugoorani village is located at a distance of about 110m. At the north eastern side Bharahidasan Nagar hamlet is located at the boundary. At the west direction coconut trees and irrigation fields are located. At the northern direction paddy fields, irrigation lands are located. At the eastern direction, agricultural lands are located. The Respondent unit proposes a buffer zone around the unit's boundary to develop green belt. The Board resolved to approve the grant of NOC to the unit subject to the conditions and one of the conditions is that the unit shall leave a buffer zone of 1 50 metres from the Bharathidasan Nagar and Kalugoorani habitation. The Board issued "NOC to the unit vide letter dated 28-6-2005. As per the E1A Notification, the unit has to obtain environmental clearance from the State Government. The public hearing had been conducted as stipulated in the E1A Notification. Based on the views expressed in the public hearing, the Respondent unit has been requested to furnish additional particular. After, the unit assured to provide buffer

zone around the unit, the subject was placed before the Board and the Board resolved to approve the grant of NOC.

8. The authorised signatory of M/s. Regency Power Corporation filed a counter affidavit reiterating the steps taken by them.

9. Heard Mr. M. Ajmal Khan, Learned Counsel for the Petitioner in both the writ petitions; Mr. A.L. Somayaji, learned senior counsel for Pollution Control Board and Environmental Engineer; Mr. C. Selvaraj, learned Government Advocate for Government and District Collector, Ramanathapuram; and Mr. S. Karthikeyan, Learned Counsel for M/s. Regency Power Corporation, Hyderabad.

10. Mr. M. Ajmal Khan, Learned Counsel appearing for the Petitioner, after taking us through the relevant particulars, raised the following contentions:

Considering the nature of the unit being established by the Regency Power Corporation, the Government/District Collector and the Pollution Control Board have to conduct public hearing in the manner as provided under Environmental Impact Assessment Notification (EIA Notification), 1994, issued under G.O. Ms. No. 487 - Environment and Forests (EC-IU) Department dated 22-12-1997. Since no effective public hearing was held and in accordance with the said Government Order, the grant of "No Objection Certificate" ("NOC" in short) in favour of Regency Power Corporation cannot be sustained. He also contended that the Government and the Pollution Control Board have to take note of the complaints of the residents of the locality of their right to life guaranteed under Article 21 of the Constitution of India. The Pollution Control Board failed to take note of their report dated 28-3-2005 of their own officer, namely. District Environmental Engineer before granting "NOC. On the other hand, Mr. A.L. Somayaji, learned senior counsel appearing for the Pollution Control Board, would submit that public hearing panel was constituted as per the Government Order and hearing was held on 15-3-2005 in the chamber of the District Collector. He also contended that the objection raised by the District Environmental Engineer have been forwarded to the Regency Power Corporation and on their assurance that buffer zone of 150 metres from Bharathidasan Nagar and Kalugoorani habitation will be provided, the Board issued NOC. He also submitted that in addition to the same, the unit has to obtain environmental clearance from the State Government and consent for establishment will be issued to the unit only after the unit obtained the environmental clearance and furnished the same to the Board. According to him, there is no merit in both the writ petitions. The learned Government Advocate appearing for the State Government and the District Collector reiterated the same. Learned Counsel appearing for the Regency Power Corporation also highlighted that the public hearing panel was validly constituted, that the objections in the public hearing were considered and in the light of the fulfillment of various conditions by the unit, the Tamil Nadu Pollution Control Board granted "NOC subject to further condition of obtaining environmental clearance from the State Government; hence there is no basis with regard to the apprehension raised by the Petitioner.

11. We have carefully considered the relevant materials and the rival contentions.

12. The main points to be considered are:

(i) Whether public hearing was conducted in the manner as provided under Environmental Impact Assessment Notification, 1994 issued under G.O. Ms. No. 487 Environment and Forests Department dated 22-12-1997?

(ii) Whether the public hearing held on 15-03-2005 satisfies/fulfills the conditions prescribed in the Notification; and (iii) Whether Pollution Control Board is justified in granting "NOC in the light of the report dated 28-06-2005?

13. The Government of India considering the importance of the environment, amended the Environment Impact Assessment Notification, 1994 ("EIA Notification" in short) in and by which public hearing has been made as mandatory for all the projects covered in Schedule I of the said Notification. Powers have been delegated to State Department of Environment for issue of environmental clearance to those categories of Thermal Power Plants which has been listed in Schedule I of the Notification. The amended Notification will apply to all projects which are received after 10th April, 1997. In order to have proper assessment of the project, after obtaining the views of the general public, the Government of India inter alia, amended the EIA Notification dated 10th April, 1997 for giving effect to public hearing as mandatory for all the projects covered in Schedule I of the EIA Notification, with effect from 10-4-1997. In the amended Notification, the Government of India have detailed the composition of the Public Hearing Panel in the districts, process for Public Hearing, Notice of Public Hearing and access to the executive summary. The composition of public Hearing Panel consists of the following:

i) Representative of State Pollution Control Board;

ii) District Collector or his nominee;

iii) Representative of State Government dealing with the subject;

iv) Representative of Department of the State Government dealing with Environment;

v) Not more than three representative of the local bodies such as Municipalities or Panchayat;

vi) Not more than three senior citizens of the area nominated by the District Collector.

14. The State Government in furtherance of the EIA Notification issued in G.O. Ms. No. 487, Environment and Forests, dated 22-12-1997, constituted a Public Hearing Panel for Ramanathapuram District. The panel consists of.

i) Joint Chief Environmental Engineer-District Environmental Engineer;

ii) District Collector;

- iii) Deputy Secretary/Under Secretary to the Government, Environment and Forest Department;
- iv) Director of Environment;
- v) 5 persons including M.L.A. and President of the Panchayat.

As observed earlier, since the Unit, namely, Regency Power Corporation is a Thermal Power Plant with investment of Rs. 185.40 Crores, it attracts the provisions of the EIA Notification, 1994. It is not in dispute that as per the said Notification, amended on 10-4-1997, public hearing has been made as mandatory for the projects attracting EIA Notification. As per the procedure for public hearing as laid down in the Schedule IV of the said notification, the Tamil Nadu Pollution Control Board caused notice for public hearing which was published in two newspapers on 12-2-2005. The public hearing meeting was held on 15-3-2005 at 3.30 P.M. at District Collector's Chamber, Ramanathapuram. The following members of the public hearing panel had participated in the said public hearing:

- i) Thiru K. Sellamuthu, I.A.S., District Collector, Ramanathapuram.
- ii) Thiru C. Muthukani, M.E., District Environmental Engineer i/c, Tamilnadu Pollution Control Board, Virudhunagar.
- iii) Dr. T., Aravindaraj, M.D., M/s. Kanagamani Clinic, Ramanathapuram.
- iv) Thiru M. Jeyakumar, Municipal Councilor, Ramanathapuram.
- v) Thiru S.P. Kalimuthu, Chairman, Kamudhi Panchayat Union.
- vi) Thiru M.K.K. Thangamarakkayar alias Se-Ku, Abdul Kadar, Chairman, Mandapam Town Panchayat.

Admittedly, the Director of Environment and the Deputy Secretary to the Government being the Members of the public hearing panel were absent. Though the State of Tamil Nadu, Environmental and Forest Department is made as a first Respondent and the District Collector as a third Respondent in W.P. No. 7020/2005, there is no explanation at all for the absence of these two persons, namely, Director of Environment and Deputy Secretary to the Government. No doubt, Mr. A.L. Somayaji, learned senior counsel appearing for Pollution Control Board, submitted that merely because two persons of the committee were absent, the decision taken on 15-3-2005 cannot be faulted with. We are unable to accept the said contention. We have already referred to the fact that as per the EIA Notification as amended by the Government of India, constitution of public hearing panel is a mandatory for project clearance and it is but proper the grievance of public should be heard in the presence of the officers of the concerned departments. The absence of Director of Environment and the Deputy Secretary to the Government of the concerned department cannot be viewed lightly in the light of the nature of the project and importance of safety and environment of the persons residing in and around the project. As said earlier,

there is no explanation at all by the State Government and the District Collector, Ramanathapuram for the absence of the two members of public hearing panel in the public hearing conducted by the District Collector on 15-3-2005.

15. Another relevant aspect highlighted by the Petitioner is that the public hearing that was held on 15-03-2005 at the Collectorate was terminated immediately on the protest by the villagers. It is also the claim of the Petitioner that the official Respondents were influenced by the Regency Power Corporation with issue of clearance certificate to them. It is also brought to our notice that in Writ Petition No. 4655 of 2005 the very same Petitioner sought for a Mandamus forbearing the Respondents from permitting the 4th Respondent to commission the power plant without conducting public hearing afresh in accordance with G.O. Ms. No. 487 dated 22-12-1997 to enable the residents of the village to put-forth their objections, for which the official-Respondents though entered appearance informed this Court that no decision was taken on the public hearing and therefore no clearance certificate was issued to the unit. While so, it is the grievance of the Petitioner that the Member Secretary, Pollution Control Board had issued NOC in favour of the Unit on 28-6-2005 for setting up of Thermal Power Plant. A perusal of the File produced by the Pollution Control Board also shows that on the date of public hearing i.e., on 15-3-2005, large number of public turned out and protested against the proposed setting up of thermal power plant in their village Kalugoorani. The File also discloses that the meeting, conducted on 15-3-2005, was terminated abruptly, in such a circumstance, it is not clear what was the decision taken by the Public Hearing Panel after deliberation on 15-3-2005; and whether the objections raised by the public were duly considered or not? The Pollution Control Board has filed a counter affidavit stating that the Public Hearing Panel had submitted its report and based on the Minutes found therein, the Board granted "NOC in favour of the Unit for setting up of thermal power plant. We have already referred to the fact that though the Public Hearing Panel was constituted in accordance with the EIA Notification, there is no explanation on the side of the Government for the absence of the two Members/Officers of the concerned departments. In the light of the above details, particularly the absence of two Members in the Public Hearing Panel, the serious allegation that public hearing was terminated abruptly on the protest from the villagers on 15-3-2005 as well as absence of details regarding the decision taken in the public hearing, we sustain the objection raised by the Petitioner and hold that the public hearing, which is mandatory as per the EIA Notification, was not fully complied with and implemented by the District Collector, who is the monitoring authority.

16. It is relevant to note that after the Public Hearing Panel meeting, Thiru C. Muthukani, District Environmental Engineer, Tamil Nadu Pollution Control Board, Virudhunagar, who also participated in the public hearing, has sent a detailed letter No. DEE/TNPC Bd/VNR/F RL-9/2005 dated 28-3-2005 to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai-32, pointing out certain apprehension and doubts regarding the proposed project. After narrating the

details furnished by the Unit namely Regency Power Corporation regarding the proposed project, views of the other departments, including Forest and Agriculture, and the objection of the public who participated, he has concluded thus:

On hearing the public's views the Public Hearing members are on the conclusion that the public of Kalugoorani Village are objecting to the location of the unit.

Also, I submit the following technical informations for kind perusal.

- i) The unit may generate 1.50 KLD of sewage and 37.0 KLD of trade effluent
- ii) The cost of the project is Rs. 184.5 Crores.
- iii) The raw water required for the project is 245 KLD. The unit has informed that the water will be obtained by digging bore wells at available locations even away from the project site.
- iv) The unit has proposed to install 3 Nos. of machineries for power production (please see unit's letter dt.26-2-2005)
- v) The unit has proposed to provide treatment systems for sewage and trade effluent
- vi) Even though the River Vaigai is passing at a distance of about 740 m, the river source has been exempted vide Lr. MS. No. 181 E & F, dt. 19-11 -03 of the Secretary to Government, E & F (EC-III) Dept. Secretariat, Chennai as this thermal power unit has proposed to utilize only Natural gas as fuel.
- vii) The unit has furnished Patta Transfer Order obtained from Zonal Deputy Tahsildar, Ramnad instead of land ownership documents.
- viii) The unit has proposed to provide Rain Water Harvesting system
- ix) The unit has earmarked the boundary of the unit by fixing coloured stones especially at the village sides and hence area earmarked for the unit's activity is well defined.
- x) From the boundary no distance is available from the said Bharathidasan Nagar consisting of about 20 houses located at North East. About 1 10m is left between the Kalugurani Village and the unit's boundary at Southern side.
- xi) The unit has furnished a letter dt.19-3-2005 ie. After the Public Hearing Meeting (received in this office on 23-3-2005) wherein the unit has furnished a drawing in which the distance between the Bharathidasan Nagar and the machineries installation points is 136.94 m and 208 m respectively.

Further, I submit the following:

It is learnt that during Boomi Pooja at the project site Public have agitated and gave hindrance to the unit authorities. Hence, it is felt that the public may give hindrance to the unit even during initial period.

It is learnt that the District Collectorate has organized a Peace Committee Meeting on 14-3-2005 among the Public and entrepreneurs from the above the public's motivation may kindly be understood.

A complaint has been received in this office on 14-3-2005 wherein the public have objected the project at the said location.

Under these circumstances, I submit the following recommendations-1) The unit authorities may be addressed from the Board office to furnish the following details since the unit authorities have not furnished the same to this office so far.

i) To furnish exact distances from the boundary of the unit and to the Bharathidasan Nagar, Sadayan valasai and Kalugurani Village. The distance between the above residences and unit's activities including generator sets, gas storage/input area, motors, pumps, stacks installation area etc., by taking a concrete solution.

ii) Proposal of expansion activities of the project if any and if so the details of the same.

iii) Building plans furnished is inadequate and detailed drawings shall be furnished.

iv) Topo sketch said to be furnished by the unit in many letters have not been received by this office and the same may be insisted because it will give some Environmental features and the distances between the machineries/boundaries of the unit since the particulars furnished by the unit is inadequate, vague and incomplete shape.

2) The Public's views on the project proposal is to be given due respect.

3) If the unit is put up at the same location without any modification it shall give hindrance to the public life.

4) Based on the unit's authorities technical informations pointed out in the recommendation as above a decision shall be arrived at.

5) If the authorities do not come with the clear distance criteria among the unit's establishment/machineries/gas supply point/motors and pumps/stacks/administrative buildings/TNEB provisions for wheeling the current/Expansion activities/other facilities etc.. No Objection Certificate to the unit may not be considered.

This is submitted for favour of kind information and necessary action please.

End: 1) FIR 2) Copy of minutes of the meeting.

3) Copies of unit's letter.

(Sd) xx xx

District Environmental Engineer (i/c) Tamil Nadu Pollution Control Board, Virudhunagar.

17. The above letter makes it clear that there was a strong opposition by the public of the village concerned to the location of the unit. Further, the Field

Officer, namely, District Environmental Engineer has raised certain technical objections. No doubt, based on the report and pursuant to the direction of the Pollution Control Board, the Power Corporation has submitted certain information regarding distance between habitants and various machineries to be installed etc. There is no information how the queries raised by the District Environmental Engineer have been answered and considered and ultimately NOC was granted in favour of the Power Corporation. Though a condition has been issued for formation of 150 metres buffer zone around the unit's boundary to develop a green belt has been imposed, admittedly from the boundary of the proposed unit, no distance is available from Bharathidasan Nagar which consists of 20 houses located at north-east; in such a situation, it is not clear how it would be possible for the unit to form buffer zone of 150 metres around its boundary to develop green belt. In the absence of all the relevant details, particularly the questions/ doubts raised by the District Environmental Engineer in his letter dated 28-3-2005, we are of the view that the Pollution Control Board failed to take note of the relevant aspects before grant of "NOC to set up a buffer zone within the residential locality of the village which will expose the life and liberty of the residential village.

18. Though it was brought to our notice by the Learned Counsel appearing for the Power Corporation that after discussion and deliberation, the villagers have agreed and consented for the formation of the project and also executed a deed of settlement giving consent and the Power Corporation also agreed to renovate a temple situated there, lay road, etc., for the village, the fact remains that except the signatures of some of the villagers and representative of the Power Corporation, there is no evidence to show that the said agreement was reached on the basis of consensus of the villagers or in the presence of officers of either the Revenue or the Environment Departments. In such circumstances, there is no need to give credence to the agreement said to have been executed between some of the villagers and the Power Corporation.

19. In the light of our discussion, the proceedings of the Member Secretary, Tamil Nadu Pollution Control Board, Chennai dated 28-6-2005, granting No Objection Certificate for setting up of Thermal Power Plant in favour of M/s. Regency Power Corporation, Hyderabad is quashed. Direction is issued to the Pollution Control Board and the District Collector to conduct public hearing afresh in accordance with G.O. Ms. No. 487 Environment and Forests Department dated 22-12-1997 and permit the residents of Kalugoorani village, Ramanathapuram Taluk, Ramanathapuram District, to put-forth their objections, if any, consider and thereafter proceed further in the matter in accordance with law. Both the Writ Petitions are allowed on the above terms. No costs. Connected W.P.M. Ps., are closed.