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A PIL TO PROTECT THE RIVERS IN THE KONGU REGION

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ABSTRACT

This Public Interest Litigation (PIL) addresses the severe and persistent pollution of the rivers in the Kongu region of Tamil Nadu, particularly the Noyyal River and the Bharani River. This is a critical issue that infringes upon the Fundamental Rights of over 27.4 million people residing in that region. This PIL was brought before the Hon 'ble Supreme Court of India under Article 32 of the Constitution, arguing that the current multi-body, post-facto approach to environmental protection has been a catastrophic failure. The core problem discussed here is the lax enforcement of policies by the government bodies, such as the Tamil Nadu Pollution Control Board (TNPCB) and the Public Works Department (PWD). These bodies have failed in their duty to protect these water bodies. This failure directly violates the right to clean drinking water and to live in a clean and healthy environment, which is a part of the Fundamental Right to Life guaranteed under Article 21 of the Constitution.

This PIL put forth four main legal arguments to address these issues. First, it asserts that this PIL is maintainable before the Hon 'ble Supreme Court as it satisfies all the necessary criteria for a PIL and the Petitioner has the locus standi to file this PIL petition in the Hon 'ble Supreme Court. Second, it argues that the state's role under the Public Trust Doctrine is not a passive one, limited to issuing "consent to operate" permits. Instead, the state as a trustee of natural resources, has an active role to protect rivers from pollution and such. Third, this PIL challenges the sufficiency of the "polluter pays" principle as it is currently implemented through post-facto fines. This system is flawed because large industries simply treat these fines as an operating cost or a cost of doing business, rather than an effective deterrent. As such this

approach fails to hold them accountable for the true, long term and irreversible damage caused by pollution. This petition mandates a new and more robust model where these irresponsible industries would be required to contribute for the restoration of the environment they damaged and to make restoration a compulsory component of the penalty. Finally, this PIL proposes the creation of a single, dedicated and legally empowered authority with regulatory and enforcement powers as a novel remedy for the current and existing multi body system, which has consistently failed due to the lack of coordination. This PIL recommends the new authority to be tasked with implementing a comprehensive, integrated basin management plan for the entire river system, with a clear and unified mandate. This PIL also suggest that this new body to be structurally independent, with safeguard to protect it from external influence. This would ensure that the environment is safeguarded properly and thus assuring that the people get to live in a clean and healthy environment.

Key Words – *River Pollution, Fundamental rights, Public Trust Doctrine, Polluter Pays Principle and Integrated Environmental Governance.*

**BEFORE THE HON'BLE SUPREME COURT OF INDIA
(EXTRAORDINARY ORIGINAL JURISDICTION)
PUBLIC INTEREST LITIGATION
WRIT PETITION NO.....OF 2025**

**A PUBLIC INTEREST LITIGATION FILED UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA, 1950**

.....IN THE MATTER BETWEEN.....

ECO CRUSADERS

.....PETITIONERS

V.

**1. UNION OF INDIA, THROUGH THE SECRETARY,
MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE.**

**2. THE CHAIRMAN,
TAMIL NADU POLLUTION CONTROL BOARD.**

**3. THE PRINCIPAL SECRETARY,
ENVIRONMENT, CLIMATE AND
FOREST DEPARTMENT, GOVERNMENT OF
TAMIL NADU.**

.....RESPONDENTS

**UPON SUBMISSION TO THE HON'BLE CHIEF JUSTICE AND HIS LORDSHIP'S
COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA**

WRITTEN SUBMISSION ON BEHALF OF THE PETITIONER

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9. Intellectuals Forum, Tirupathi v. State of A.P., (2006) 3 MAD LJ 201

LIST OF ABBREVIATIONS

1. **A.P.** - Andhra Pradesh
2. **AIR** - All India Reporter
3. **Art.** - Article
4. **ETP** - Effluent Treatment Plants
5. **Hon'ble** - Honourable
6. **NGT** - National Green Tribunal
7. **Ors.** - Others
8. **PIL** - Public Interest Litigation
9. **PWD** - Public Works Department
10. **SC** - Supreme Court
11. **SCC** - Supreme Court Cases
12. **Smt.** - Shrimati
13. **Supp** - Supplement
14. **TNPCB** - Tamil Nadu Pollution Control Board
15. **U.P.** - Uttar Pradesh
16. **v..** - versus

1.STATEMENT OF JURISDICTION

The petitioners have approached this Apex Court of India under Art 32 of the Constitution of India, 1950¹, through this Public Interest Litigation.

2. STATEMENT OF FACTS

Factual Background

As a region within the Republic of India, one of the world's largest and most populous democracies, the Kongu region is home to a population of over 27.4 million people. The Constitution of India, adopted by the people of India and effective from January 26, 1950, shall be referred to herein as the 'Constitution'. The preamble of the Constitution declares India to be a sovereign, socialist, secular, democratic, republic and embodies its commitment to justice, liberty, equality, and fraternity for all its citizens². The Indian Constitution implicitly guarantees the right to clean drinking water as an integral part of the fundamental Right to Life under Art 21³.

Procedural Background

Over the past decade, there has been great turmoil through various protests regarding the pollution of the rivers in the

Kongu region, particularly the Noyyal River and the Bhavani River, which are the primary and most vital sources of drinking water for the population. Thus affecting the right to clean drinking water and the right to live in a clean and healthy environment. There have also been many cases filed against such issues. The government has enacted statutes like the Water (Prevention and Control of Pollution) Act of 1974⁴ and the Environmental Protection Act of 1986⁵. The state government is to follow such acts and act accordingly to regulate the industries, but is failing to do so. After the constant pressure from the civil societies, the government bodies like the TNPCB took action, which resulted in the industries adding effluent treatment plants (ETP) to their units to treat the effluents from these units before discharging into the water sources. There are also many other steps taken by the government to address these issues.

Current Scenario

These are the sacred rivers of Tamil Nadu, they are the sources of drinking water and also aid the farmers in the process of irrigation and such. These rivers are the most important water source for the people in the basin, and contamination directly

¹ The Constitution of India, art 32.

² The Constitution of India, preamble.

³ The Constitution of India, art 21.

⁴ The Water (Prevention and Control of Pollution) Act, 1974 (Act no. 6 of 1974)

⁵ The Environment Protection Act, 1986 (Act no.29 of 1986)

infringes upon the right to clean drinking water for the entire population. The politicians are using the loopholes in these statutes to their own personal and political gain. The government bodies are lax and not doing their job properly. Because of this, the pollution is still happening at large, and no progress is being made to prevent or reduce the problem at hand. And since multiple local bodies exist to deal with such issues and there is no coordination between them, as a result, they are continuously producing failures.

3. STATEMENT OF ISSUES

1. Whether the instant Public Interest Litigation is maintainable before this Hon'ble Court?
2. Is the state's role in environmental protection merely to issue a "consent to operate," or does the Public Trust Doctrine demand a more proactive and accountable stewardship of natural resources?
3. Has the "Polluter pays" principle, as currently implemented through Post-facto fines, proven to be sufficient deterrent to prevent severe and irreversible pollution in the Noyyal and Bhavani rivers?
4. Given the failures of a multi-agency, is it now imperative to create a single,

dedicated, and legally empowered authority with consolidated regulatory and enforcement powers.

4. SUMMARY OF THE ARGUMENTS

1. WHETHER THE INSTANT PUBLIC INTEREST LITIGATION IS MAINTAINABLE BEFORE THIS HON'BLE COURT?

It is humbly submitted by the petitioners that this PIL is maintainable before this Hon'ble Apex Court of India as it is filed for a larger public interest and it is a well-settled principle of law that even though there may be an iota of personal interest, if a Public Interest Litigation benefits the society at large, "relaxation of locus standi" principle will apply to the litigation. Therefore, since all essentials of a Public Interest Litigation are satisfied and since the various rights under the Constitution like Arts. 14, 21, 48A, 51A (a), 51A (f), 51A (g)⁶ are being grossly violated through the action of the industries and the disengagement of the public officials.

2. IS THE STATE'S ROLE IN ENVIRONMENTAL PROTECTION MERELY TO

⁶ The Constitution of India, arts 14, 21, 48A, 51A(a), 51A(f), 51A(g).

ISSUE A “CONSENT TO OPERATE,” OR DOES THE PUBLIC TRUST DOCTRINE DEMAND A MORE PROACTIVE AND ACCOUNTABLE STEWARDSHIP OF NATURAL RESOURCES?

It is humbly submitted by the petitioners before the Hon’ble Court that even though there are clear provisions in the statutes, the government bodies only took action after being pressured by the civil societies. It is clear that once after giving consent is given to operate, the government bodies like TNPCB and PWD do not even care to check whether the industries are being operated within the prescribed limit or not. This negligence directly leads to the violation of the fundamental right to clean drinking water, which the State is constitutionally bound to protect.

3. HAS THE “POLLUTER PAYS” PRINCIPLE, AS CURRENTLY IMPLIMENTED THROUGH POST-FACTO FINES, PROVEN TO BE SUFFICIENT DETERRENT TO PREVENT SEVERE AND IRREVERSIBLE POLLUTION IN THE NOYYAL AND BHAVANI RIVERS?

It is humbly submitted by the petitioners before the Hon’ble Court that the “polluter pays” principle seems to be of no effect since the root problem is still there. The big industries with profits as high as the sky can easily pay off the penalty, and so they, instead of being wary of these fines, are just using them as a license to pollute, which can be bought easily by paying the fine later.

4. GIVEN THE FAILURES OF A MULTI-AGENCY, IS IT NOW IMPERATIVE TO CREATE A SINGLE, DEDICATED, AND LEGALLY EMPOWERED AUTHORITY WITH CONSOLIDATED REGULATORY AND ENFORCEMENT POWERS?

It is humbly submitted by the petitioners before the Hon’ble Court that the present system with various regulatory bodies is not producing the desired result, and it is only reasonable that, after failing for so long, a new single body with appropriate power is created for this purpose.

ARGUMENTS ADVANCED

1. WHETHER THE INSTANT PUBLIC INTEREST LITIGATION IS MAINTAINABLE BEFORE THIS HON’BLE COURT?

The Petitioner most humbly submits that the Public Interest Litigation filed under Art 32⁷ of the Constitution is maintainable before this Hon'ble Supreme Court as the essentials and the ingredients of PIL stand satisfied and there is a violation of Fundamental Rights in the concerned matter of fact.

1.1 All ingredients of a PIL stand satisfied.

- a) Public Interest Litigation is the effort taken by the Petitioner to raise the issues of the public. The petitioner, through this PIL, speaks for the populous of the Kongu region who are suffering due to the incapability of the public officers of the government bodies like TNPCB and PWD.
- b) The Public Interest Litigation should not be used for suspicious activity, and it is not a remedy or panacea for all wrongs. The powers of PIL conferred to the Apex Court under Art 32 should be used with a lot of caution.
- c) It is the differential submission of the Petitioner that all the limbs that have been laid down are satisfied in the instant matter, and thus, this PIL

should be entertained by this Hon'ble Supreme Court.

1.2 Petitioner has locus standi to file this PIL

- a) The Hon'ble Apex Court has the responsibility to ensure that it satisfies the essentials of the Petitioner before accepting a PIL. The Court must be careful to see that a member of the public who approaches the Court is acting genuinely and not for personal gain, private motive, or political motive.
- b) A Public Interest Litigation petitioner must demonstrate not only clean hands, but also a clean heart, a clean mind, and a clear objective when approaching the Court. A Public Interest Litigation that has a substantial amount of public interest and an incidental private interest is maintainable before the Hon'ble Court.
- c) In the factual context, it is obvious that the petitioner has a substantial amount of public interest in this case, and mere involvement of any private interest doesn't deprive the present litigation of its public character.

⁷ The Constitution of India art 32.

1.3 Involvement of Public Interest

- a) The petitioner humbly submits before this Hon'ble Court that the pollution of the Noyyal and Bhavani rivers is a quintessential example of a public interest issue. It touches upon the most fundamental rights and well-being of a vast population, as well as the long-term ecological health of a region. The fundamental rights violated here not only involve the right to clean drinking water but also many more. The public interest involved here can be broken down into several interconnected and critical components: viz.
- b) The right to clean drinking water
- c) Right to equality
- d) The right to a clean and healthy environment
- e) Public health
- f) Economic and livelihood security
- g) Food and water security
- h) Inter-generational equity
- i) Ecological integrity and biodiversity
- j) Rule of law and accountability

2. IS THE STATE'S ROLE IN ENVIRONMENTAL PROTECTION MERELY TO ISSUE A "CONSENT TO

OPERATE," OR DOES THE PUBLIC TRUST DOCTRINE DEMAND A MORE PROACTIVE AND ACCOUNTABLE STEWARDSHIP OF NATURAL RESOURCES?

2.1 The State's role in environmental protection:

The Public Trust Doctrine, as interpreted by the Supreme Court, is not a passive philosophy but an active legal mandate. In the Vellore Citizens' Welfare Forum case⁸, the court emphasized the state's duty to protect natural resources for public use. This duty is particularly critical for water bodies, as the SC has repeatedly held that the right to clean water is an intrinsic part of the right to life. The State's role as a trustee is therefore to ensure that the rivers and other water sources are protected for the public good, with a special emphasis on their use for drinking. This principle, the public trust doctrine, was further cemented in cases like *M.C. Mehta v. Kamal Nath*⁹, where the court explicitly held that the state is a trustee of natural resources and cannot alienate them for private use. Similarly, in *Intellectuals Forum, Tirupathi v. State of A.P.*¹⁰, the court used the same doctrine to protect the lakes and tanks from commercial exploitation. Thus, the State's duty extends

⁸Vellore Citizens' Welfare Forum v. UOI, AIR 1996 SC 2715

⁹*M.C. Mehta v. Kamal Nath*&Ors, AIR ONLINE 1996 SC 711

¹⁰*Intellectuals Forum, Tirupathi v. State of A.P.*, (2006) 3 MAD LJ 201

beyond simply having laws on the books; it requires vigilant and effective enforcement. In the context of the Noyyal and Bhavani, the failure to prevent pollution is not an oversight but a fundamental dereliction of this duty. When the TNPCB, the designated authority, issues a "Consent to Operate" without ensuring 100% compliance with effluent standards, it actively participates in the breach of trust, as it grants legal cover to polluting activities. The State's obligation is to protect the rivers for the public, not to facilitate their use as an industrial sewer.

2.2 The TNPCB's role in granting approvals: The argument here is rooted in the principle of absolute liability and the precautionary principle. The Supreme Court in cases like *M.C. Mehta vs. Union of India*¹¹ established that industries dealing with hazardous substances are absolutely liable for any harm caused. By granting approvals or failing to revoke them, the TNPCB is essentially accepting a lower standard of care, which is legally untenable. This failure is a recurring issue, as evidenced by the National Green Tribunal's intervention in cases like *Smt. R. Prabha v. TNPCB*¹² and *K. Govindasamy v. TNPCB*¹³, where the tribunal was

compelled to direct the TNPCB to enforce environmental norms and act against polluting units. Furthermore, given the history of severe pollution in the Noyyal-Bhavani basin, the precautionary principle should mandate a stricter standard of proof for compliance before any consent is granted, and an immediate withdrawal of consent upon any violation. The current practice creates a legal fiction of compliance that the rivers themselves disprove.

2.3 Transforming the State's function:

This argument calls for a paradigm shift from a command-and-control regulatory model to a more modern, technology-driven, and transparent governance framework. Instead of relying on periodic inspections and paper-based compliance, the State should be compelled to adopt real-time monitoring and digital enforcement. The judicial branch, through its directives, can force the executive to implement these technologies and make the data public. The court has a precedent of compelling such action, as seen in *Tehri Bandh VirodhiSangharshSamiti v. State of U.P.*¹⁴., where it underscored the need for proper environmental impact assessment and the state's trusteeship role over the

¹¹*M.C. Mehta v. UOI*, (1996) SCC (4) 750

¹²*Smt. R. Prabha v. TNPCB*, OA NO. 147 OF 2020(SZ)

¹³*K. Govindaswamy v. TNPCB*, WP.33065/2024(FEB 25,2025)

¹⁴*Tehri Bandh VirodhiSangharshSamiti v. St of U.P.*, AIRONLINE 1990 SC 299

environment. This transformation would reduce bureaucratic corruption, increase accountability, and align state action with the public's right to live in a clean environment.

3 HAS THE "POLLUTER PAYS" PRINCIPLE, AS CURRENTLY IMPLIMENTED THROUGH POST-FACTO FINES, PROVEN TO BE SUFFICIENT DETERRENT TO PREVENT SEVERE AND IRREVERSIBLE POLLUTION IN THE NOYYAL AND BHAVANI RIVERS?

3.1 The sufficiency of the "Polluter Pays" principle: The "Polluter Pays" principle, while important, has a significant flaw in the context of persistent, chronic pollution: the fines are often treated as a cost of doing business rather than a true deterrent. The cost of environmental compensation is often far less than the cost of installing and operating proper effluent treatment systems. For rivers like the Noyyal and Bhavani, which have suffered decades of contamination with recalcitrant pollutants, so mere compensation is insufficient. The true cost of pollution is the irreparable damage to a community's access to safe drinking water, leading to a long-term public health crisis. The damage is

cumulative, and its effects on public health, agriculture, and groundwater are irreversible in the short term. The current model fails to capture the true cost of this long-term ecological damage. The Supreme Court in Indian Council for Enviro-Legal Action v. Union of India, also known as the Bichhri Case¹⁵, affirmed that the polluter's liability extends beyond just fines to the cost of reversing environmental damages. This precedent strengthens the argument that current fines are an insufficient deterrent.

3.2 Adopting "Precautionary and Restorative Liability": This argument proposes a more robust and forward-looking legal framework. A "Precautionary and Restorative Liability" model would shift the burden of proof and cost. Environmental performance bonds would force industries to internalize the potential costs of pollution from the outset. If an industry pollutes, this bond would be forfeited to a restoration fund, and the industry would be held liable for all additional costs until the restoration is complete. This model incentivizes preventative action rather than simply penalizing violations after they occur. This framework is also consistent with the Supreme Court's strong stance against ex

¹⁵Indian Council for Enviro-Legal Action v. UOI, (1998) 5 SUPREME 226

post facto environment clearances, as seen in *Vanashakti v. Union of India*¹⁶. The court's rationale that prior scrutiny is non-negotiable also applies to the penalties for violations, which should be preventative and restorative, not merely post-facto fines.

3.3 Compulsory restoration: This argument is based on the judiciary's power to issue mandatory injunctions and the principle of restitution. The court, as seen in cases like *Vellore Citizens' Welfare Forum*¹⁷, has the power to compel the creation of an authority to oversee restoration. The logical next step is to make restoration itself a compulsory part of the penalty. The argument contends that polluters should not be allowed to simply pay a fine and continue operations while a community is left with a "dead" river. The judicial order must mandate a verifiable, science-based restoration plan, with progress milestones, and hold the polluters accountable until those milestones are met.

4 GIVEN THE FAILURES OF A MULTI-AGENCY, IS IT NOW IMPERATIVE TO CREATE A SINGLE, DEDICATED, AND LEGALLY EMPOWERED AUTHORITY WITH CONSOLIDATED

REGULATORY AND ENFORCEMENT POWERS?

4.1 A single River Basin Authority: The pollution of the Noyyal and Bhavani is a complex problem with multiple sources (industrial, municipal, agricultural) and cross-jurisdictional impacts. A single authority, with a unified mandate and a single chain of command, is the only way to ensure a holistic and coordinated response. This new authority is essential not only for environmental protection but also to specifically enforce and secure the public's right to clean drinking water, which is currently being compromised by fragmented and ineffective governance. This is a recognition that the current fragmented approach has failed. The authority's quasi-judicial powers would allow for rapid decision-making and enforcement, bypassing the delays inherent in the existing system. This is a necessary step, as the court has previously had to step in and direct the formation of a special authority, as seen in the *Vellore Citizens' Welfare Forum* case¹⁸, to address the failures of existing regulatory bodies.

4.2 An integrated basin management plan: The argument is that a piecemeal approach to pollution control is destined to

¹⁶*Vanashakti v. UOI*, 2024:BHC-OS:14641

¹⁷*Vellore Citizens' Welfare Forum v. UOI*, AIR 1996 SC 2715

¹⁸ *Ibid.*

fail. A "basin management plan" would be a legally mandated document outlining specific, measurable, and time-bound goals for industrial, municipal, and agricultural waste management across the entire river basin. This plan would be the master blueprint for restoration, and the new authority would be tasked with its execution. This measure would ensure a synchronized effort from the stakeholders, guaranteeing that their actions are directed toward a common objective.

4.3 The independence of a new authority:

The effectiveness of any new body depends on its independence. The argument is that the judiciary, through its directives, must build in safeguards to protect this new authority from political and industrial influence. This could include a selection process for its members that is transparent and involves retired judges, environmental experts, and civil society representatives. This would ensure that the authority's primary loyalty is to the environment and the public, not to the government or the industries it regulates.

5. PRAYER

For the reasons stated above and in reliance upon the authorities cited, the Petitioner most humbly prays that this Hon'ble Court may be pleased to adjudge and declare that:

- i) That the public officials are being negligent in doing their duties, and by doing so, destroying the public trust.
- ii) The inhabitants of this area have the right to clean drinking water and the right to live in a clean and healthy environment, which are now being affected.
- iii) The penalty to include restoration and to make it a compulsory part of the penalty.
- iv) The already existing numerous local authorities and governmental bodies are not functioning efficiently, and so there is a need to create a new single body to manage things.

And grant any other appropriate relief this Hon'ble Court believes is necessary to ensure a just outcome.

These, the petitioner shall duty bound, forever pray

All of which is submitted with utmost reverence

Solemnly affirmed at New Delhi

Before Me,

On the 27th day of July 2025

And signed his name in my presence

THE PETITIONER.