

**BEFORE THE HON'BLE NATIONAL TRIBUNAL, SOUTHERN ZONE AT  
CHENNAI**

O A.No.07 of 2022

Meenava Thanthai K.R.Selvaraj kumar  
Meenavar Nala sangam  
Rep by its President  
M.R.Thiyagarajan  
At No.15/8, A J Colony  
Royapuram, Chenai-600 013

--- Applicant

-Vs-

Tamil Nadu State Environment Impact Assessment Authoritys  
Through the Chairman  
3<sup>rd</sup> floor, Panagal Maligai  
No.1, Jeenis Road, Saidapet,, Chennai-600 015  
Tamil Nadu and 3 others

--- Respondents

**OBJECTIONS BY 4<sup>TH</sup> RESPONDENT ON THE OBSERVATIONS OF JOINT  
COMMITTEE REPORT DATED 2-3-2022**

**M/s B. RADHAKRISHNAN**

**& K.SIVASUBRAMANIAN**

**COUNSEL FOR 4<sup>TH</sup> RESPONDENT**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH AT CHENNAI**

Original Application No. 07 of 2022 (SZ)

**MEENAVA THANTHAI K.R.SELVARAJ KUMAR  
MEENAVAR NALA SANGAM**

Represented by its President,  
M. R.Thiyagarajan,  
Slo Late C. Rajalingam,  
Office at No.15/8, A.J. Colony,  
Royapuram, Chennai-600 013.

...Applicant

Versus

**1. TAMIL NADU STATE ENVIRONMENT IMPACT ASSESSMENT  
AUTHORITY**

Through the Chairman  
3'd Floor, Pangal Maligai,  
No.1 Jeenis Road, Saidapet, Chennai-600 015.  
Tamil Nadu.

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

Through the Chairman,  
76, Mount Salai,  
Guindy, Chennai - 600 032

**3. THE DISTRICT COLLECTOR,**

Thiruvallur District,  
Master Plan Complex NH 205,  
Chennai - Tiruttani Highway,  
Thiruvallur, Tamil Nadu 602001.

**4. ACS MEDICAL COLLEGE AND HOSPITAL**

Through the President,  
Numbal Village,  
Ponnbmallee Taluk,  
Thirwallur Distict  
Tamil Nadu. 600077.

...Respondent(s)

**OBJECTIONS FILED BY THE 4<sup>TH</sup> RESPONDENT TOWARDS THE  
OBSERVATIONS OF THE JOINT COMMITTEE REPORT DATED 02-03-2022**

The 4<sup>th</sup> Respondent humbly submits as follows:

1. At the outset the 4<sup>th</sup> Respondent denies all the averments in the Joint Committee Report dated 02.03.2022 except that are specifically admitted hereunder.
2. With respect to averment of Environmental Clearance, as per Ministry of Environment, Forest and Climate Change Notification No. S.O. 1533(E), the Environment Impact Assessment Notification 2006 came into force (herein after EIA 2006). The said notification contained a schedule which stipulated the list of projects or activities that require prior environmental clearance. The Ministry of Environment, Forest and Climate Change vide Notification No. S.O. 3522(E) dated 22.14.2014 exempted Schools, Colleges and Hostel of Educational institution from obtaining prior environmental clearance by amending the EIA 2006. Further, through the Ministry of Environment, Forest and Climate Change Office Memorandum dated 09.06.2015, EIA 2006 was clarified that medical universities/institutions are exempted except the Hospitals that are attached to said universities/institutions. Later, through the Ministry of Environment, Forest and Climate Change Notification No. S.O.5736(E) dated 15.09.2018, EIA 2006 was amended that item 8(b) wherein Hospital falling under item 8(b) are exempted from having prior Environmental clearance.
3. Though the position stood like that the 4<sup>th</sup> Respondent had applied for environmental clearance as early as on 25-2-2009. The said application is pending for scrutiny by the authorities concerned till date. Without EC the consent to operate cannot be issued by TNPCB. The position of our application as violation category for EC is pending with SEIAA-TN is very well known to TNPCB. It is accepted in the report also . The board also one of the committee member for issuing EC; Therefore the

observation submitted in this regard is not correct. It is evidently clear from the various notification of the MoEF&CC and documents of building area of the college submitted for the environmental clearance as well as the joint committee report that the total extent of the 4<sup>th</sup> Respondent is 78,103.58sq.m. Therefore, in light of the amended EIA 2006 during 2018, the 4<sup>th</sup> Respondent does not require prior environmental clearance to operate. Further, the 4<sup>th</sup> Respondent has complied with various statutory requirements and conditions stipulated by the environment authorities from time to time. The 4<sup>th</sup> Respondent had taken all necessary steps to maintain the standard towards the environment impact while operating its institution and hospital. Thus, the 4<sup>th</sup> Respondent has not committed any violation as stated in the Report. Therefore the show cause notices issued on 22-1-2019 and 24-1-2022 for without EC and directed to obtain the EC within a months time and further directed to get clearance and consent to operate within two months when our application for EC under violation gatagory is pending with SEIAA-TN. This respondent also submitted our reply to the said show cause notices issued . Therefore the observation with regard to show cause issued have no relevance at all.

4. With respect to the averment as to Bio-medical waste management, as per Section 10 of the Bio-medical waste management rules, 2016, it is either the occupier or the operator, handling the bio-medical waste shall make an application to the respective authority for the grant of authorization.

The relevant provision in the above said rules are extracted hereunder for ease of reference:

- i. "10. Procedure for authorisation.-Every occupier or operator handling bio-medical waste, irrespective of the quantity*

shall make an application in Form II to the prescribed authority i.e. State Pollution Control Board and Pollution Control Committee, as the case may be, for grant of authorisation and the prescribed authority shall grant the provisional authorisation in Form III and the validity of such authorisation for bedded health care facility and operator of a common facility shall be synchronised with the validity of the consents.

- (1) The authorisation shall be one time for non-bedded occupiers and the authorisation in such cases shall be deemed to have been granted, if not objected by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents.
- (2) In case of refusal of renewal, cancellation or suspension of the authorisation by the prescribed authority, the reasons shall be recorded in writing: Provided that the prescribed authority shall give an opportunity of being heard to the applicant before such refusal of the authorisation.
- (3) Every application for authorisation shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorisation is granted under these rules.
- (4) In case of any change in the bio-medical waste generation, handling, treatment and disposal for which authorisation was earlier granted, the occupier or operator shall intimate to the prescribed authority

*about the change or variation in the activity and shall submit a fresh application in Form II for modification of the conditions of authorisation."*

It is pertinent to state that the 4<sup>th</sup> Respondent has entered into an agreement with Tamilnadu Waste Management limited who is a authorising agency of TNPCB to avail the service required for Bio-Medical Waste Management on yearly basis in compliance with the Bio-Medical Waste (Management and Handling) Rules, 2016. The latest agreement entered with the said agency submitted in the document is clearly establishes the same. This fact also admitted in the report of the joint committee. There has been zero illegal dumping/unscientific disposal as alleged by the Petitioner. The Bio-medical waste generated and segregated as per the Bio-medical Waste Management Rules, 2016 by the 4<sup>th</sup> Respondent are handled by Tamilnadu waste Management Limited which has the necessary permissions under the above mentioned rules. This respondent cannot get direct authorisation under bio medical waste Management Rules unless this respondent get EC from SEIAA-TN.

5. With respect to the averments relating to compensation and its computation, there has been no delay on the part of the 4<sup>th</sup> Respondent. The 4<sup>th</sup> Respondent had obtained the Consent to Establish from TNPCB dated 14.02.2008 post which from the year 2010 to 2014 there were several guidelines issued by the Ministry of Environment, Forests and Climate Change with least clarity with respect to requirement of obtaining the EC and Consent to Operate (CTO) for the Medical College and Hospital. The Ministry of Environment, Forests and Climate Change through an 'Office Memorandum' dated 09.06.2015 clarified

regarding its Gazette Notification No.S.O.3252 (E) dated 22.12.2014, wherein it was clarified that the exemption to obtain prior EC extends to Medical Universities/Institutions but not to the Hospital of the medical university/institution. Subsequently, based on the above notification, the 4<sup>th</sup> Respondent had submitted an application to the State Environment Impact Assessment Authority - Tamil Nadu (SEIAA-TN) for obtaining the EC in 2016. Further, the application of the 4<sup>th</sup> Respondent was placed under Violation Category by SEIAA-TN and have been directed to obtain EC as per Ministry of Environment, Forests and Climate Change notification S.O.804(E) dated 14.03.2017. On 11.07.2018, the 4<sup>th</sup> Respondent had applied for Terms of References (ToR) which was provided to the 4<sup>th</sup> Respondent by SEIAA-TN vide letter bearing No.SEIAA-TN/F.No.226/Violation/ToR - 821/2020 dated 23.11.2020. Thereafter, the 4<sup>th</sup> Respondent having complied with the ToR and submitted the application to obtain EC on 22.08.2021 followed by furnishing other details vide a letter sent to the Member Secretary, SEIAA-TN and whereby requesting to process the EC application and issue the EC at the earliest. The Ministry of Environment, Forest and Climate Change vide Notification S.O.5736 (E) dated 15.09.2018, it was amended that item 8(b) wherein Hospital falls under item 8(b) which are exempted from having prior Environmental Clearance. Moreover, the application of the 4<sup>th</sup> Respondent was kept at abeyance for many years due to varied reasons by the concerned authority and therefore the delay caused, if any, is due to the above non processing of the application filed by the 4<sup>th</sup> Respondent.

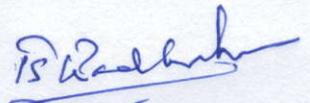
6. Further, as per Section 17 of the National Green Tribunal Act, 2010 which deals with Liability to pay relief or compensation in certain cases purports that damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or

process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal. The Report failed to state the adverse impact caused by the 4<sup>th</sup> Respondent. It is clear from the above facts that the 4<sup>th</sup> Respondent did not violate any of the environmental norms and therefore, the 4<sup>th</sup> Respondent is not liable to pay any compensation.

7. Even as per clause 2.0 of Central Pollution Control board Guidelines for imposition of environmental compensation for health care Facilities (HCFs) this respondent not attracted any of the categories as specified. When the actual position stood like that the joint committee simply observed for environmental compensation without any basis cannot be sustained. Also formula worked out also not in conformity to the prescribed under CPCB guidelines. The suggested calculation of compensation amount cannot be sustained. Thus, the compensation computed by the Joint Committee is bad in law.

In light of the above facts, it is humbly prayed that the joint committee report dated 02.03.2022 shall not be considered as far as objection raised and thus render justice.

Dated at Chennai on this <sup>30<sup>th</sup></sup> day of July 2022.



Counsel for 4<sup>th</sup> Respondent