

**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, Chennai-600 013

Applicant

-Vs-

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

Respondents

**OBJECTIONS BY 4TH RESPONDENT ON THE REPORT FILED BY THE 2ND
RESPONDENT -TNPCB DATED 23-03- 2023.**

M/s B. RADHAKRISHNAN

COUNSEL FOR 4TH 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

Vs

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

2. Tamil Nadu Pollution Control Board,
Rep by its Chairman,
76, Mount Salai, Guindy,
Chennai - 600 032

3.The District Collector,
Thiruvallur District,
Master Plan Complex NH 205,
Chennai - Tiruttani Highway,
Thiruvallur -602001.

4. ACS Medical College and Hospital
Through the President,
Numbal Village,
Ponnammallee Taluk,
Thiruvallur Distict- 600077.

...Respondent(s)

**OBJECTIONS FILED BY THE 4TH RESPONDENT ON THE REPORT
FILED BY THE 2ND RESPONDENT -TNPCB DATED 23-03-2023**

C. B. Palaniw

× REGISTRAR
Dr. M.G.R.
EDUCATIONAL AND RESEARCH INSTITUTE
DEEMED TO BE UNIVERSITY
Periyar E.V.R. High Road,
Maduravoyal, Chennai - 600 095.

The 4th Respondent is A.C.S. Medical College & Hospital, Rep. by its Registrar, Dr.C.B.Palanivelu having office at Noombal Village, Velappanchavadi, Chennai – 600 077.

The 4th Respondent humbly submits as follows:

At the outset the 4th Respondent denies all the averments in the Report of the TNPCB dated 23.03.2023 except those that are specifically admitted hereunder.

1.It is submitted that it is true that the 4th respondent had obtained consent to establish under Water and AIR Act from the year 2008 at the time of establishing the same. As per prevailing provisions under Water and AIR Act, the Environment Protection Act 1986 and the Environment Impact Assessment Notification 2006 getting of Consent to Operate further of an Educational institution or hospital is only after getting prior environmental clearance from the prescribed concerned authorities as on 2006. Though the position stood like that the 4th Respondent had applied for environmental clearance to the state authority as early as on 25-2-2009. The said application is pending for scrutiny by the authorities concerned of SEIAA till date. The same is under consideration earlier by the central and subsequently transferred to State authorities .Without EC, the consent to operate not been issued by TNPCB. Our application for EC is considered under violation category on compulsion from the year 2017 and the same is pending with SEIAA-TN and the said fact is very well known to TNPCB. It is accepted in the joint committee report dated 2-3-2022 also. The TNPCB also one of the committee member under SEIAA for issuing EC.

C. B. Palanivelu
REGISTRAR
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EDUCATIONAL AND RESEARCH INSTITUTE
DEEMED TO BE UNIVERSITY
Periyar E.V.R. High Road,
Maduravoyal, Chennai - 600 095.

2. It is submitted that there is no schedule of project by name 'Health Care Facility' is prescribed under the Environment Impact Assessment Notification 2006. When our application for the Building project of Educational institutions , college, hostels etc and hospital is periodically consider under the various agenda of the meeting conducted by the SEIAA-TN the 1st respondent herein time to time from 2017, the question of issuing show cause notice towards non obtaining of consent to operate does not arise at all. However for the show cause notice dated 22-01-2019 and for direction dated 25-2-2019 of TNPCB, reply dated 02-02-2019 of this respondent had been submitted. The 2nd respondent without looking in to our application for EC is pending with 1st respondent, directions for obtaining EC within one month or Consent to Operate within 2 months are not within the hands of this respondent.

3. It is submitted that for para 6 relating to compliant dated 19-11-2021 of discharging of sewage mixed with rain water and into nearby residential areas are only for the purpose of filing of above application before this Hon'ble Tribunal. This may be during the rainy season of that year. This respondent is maintaining 180 KLD and 300 KLD of sewage treating plant and in its operation, this respondent discharging the sewage. It is true that bio waste from this respondent building was disposed through Common treatment facility as approved agent of Tamil Nadu Waste Management Limited. It is pertinent to point out a fact that authorisation for bio medical waste disposal can be obtained only after consent to operate issued to this respondent by the 2nd respondent namely TNPCB. Towards bio medical waste management treatment the objection filed against report of the joint committee has to be taken as part and parcel of the objections.

C. B. Balasubrahmanyan

REGISTRAR
 Dr. M.G.R.
 EDUCATIONAL AND RESEARCH INSTITUTE
 DEEMED TO BE UNIVERSITY
 Periyar E.V.R. High Road,
 Maduravoyal, Chennai - 600 095.

4. It is submitted for para 8 and 9 again that for the show cause notice and directions dated 24-01-2022 towards said to be violations issued, reply dated 28-01-2022 & 10-02-222 of this respondent clarifying the position once again of the pending EC with SEIAA-TN was sent.

5. It is submitted that as far as para 10 and 11, Reply in OA was submitted denying the allegations before this Hon'ble Tribunal and objections to the Joint committee report filed by this respondent on 30-7-2022 may be treated as part and parcel of this reply by way of objection.

6. It is submitted that para 12 is only a repetition of earlier facts and without admitting the most important fact of application for consent/ environmental clearance is pending with 1 st respondent SEIAA-TN the inspection made and issuance of show cause again 02-02-2023 was dealt with in the reply of this respondent dated 03-02-2023. In the reply submitted apart from the pendency of the application and its consideration by SEIAA-TN in various meeting held during 2010 to 2023 and the representation dated 31-01-2023 submitted to SEIAA. It is submitted that towards the consideration of this respondent application for EC, the minutes of 565 th meeting held on 31-10-2022 in item 2 of file No. 226 considered the recommendation of SEAC held on 13-10-2022 for granting EC subject to the conditions that

a) Amount for Ecological remediation of Rs 35.86 lakhs; Natural resource augmentation for Rs 14.344 lakhs& community resource augmentation for Rs 21.516 lakhs totalling 71.72 lakhs as a bank Guarantee to TNPCB Also pointed out that this respondent project of building construction is exempted from obtaining prior Environmental

C. B. Palaniappan
X REGISTRAR
Dr. M.G.R.
EDUCATIONAL AND RESEARCH INSTITUTE
DEEMED TO BE UNIVERSITY
Periyar E.V.R. High Road,
Maduravoyal, Chennai - 600 095.

Clearance vide MOEFF&CC dated 14-12-2014 and 15-09-2018 .Also submitted the representation submitted on 03-01-2023 about te exemption for the project and requested to consider consent to Operate/ EC which is pending consideration before SEIAA-TN.

b) Proposed CER amount of Rs 121.72 lakhs shall be spent as committed before issue of EC

c) Submit proof of the action taken by the state government/ TNPCB against the project proponent under the provisions of Section -19 of the environment protection act 1986.

On receipt of the above details the Member secretary is requested to place the proposal before the authority for further course of action.

7. It is submitted that after receipt of the above said minuets of the meeting dated 31-10-22, this responent by representation dated 31-01-2023 requested the 1 st respondent SEIAA-TN that this responent project cannot be treated as violation category and only come under the exempted category after considering the MOEF&CC notification S O.(E) 3252 dated 22-12-2014 and further amendment notification SO(E) 5736 dated 15-11-2018 to the original Environment Impact Assessment Notification 2006 about the exemptionon obtaining prior environmental clearance for the projects of schedule 8 (a) of the notification 2006- building construction project for Educational institutions of medical college, hostel, canteen etc and Hospital building under notification SO(E) 5736 dated 15-11-2018 thus total exemption for whole project of 78,000 sq.mtr as inspected and approved area under EIA report submitted and only to get consent to operate under the Water and AIR Act.

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X REGISTRAR
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It is also submitted that as per office memorandum of MOEF&CC dated 1-5-2018 towards levying towards CER, it is applicable only for industrial projects and the educational institution run by the Trust not at all attracted and applicable. The decision of levying proposed ecological remediation, Natural Resource Augmentation and Community Resource Augmentation plans are not at all applicable in the case of exempted category of the projects of the educational institutions and hospital building under schedule 8 (a) of the Environment Impact Assessment Notification 2006 and treat the project as exempted category. Towards the said representation no reply/response is received till today from 1st respondent SEIAA-TN.

8. It is submitted that though the 2nd respondent TNPCB narrates the issuance of its show cause notices and reply of this respondent as exemption category vide notifications of MOEF &CC and representation dated 31-1-2023 to SEIAA -TN, however no information /reply given to that effect but only reflects its utter misleading the actual facts and its evading responsibility and not followed the exemption notifications of MOEFF&CC in force.

9. It is therefore submitted that the allegations of

1. After 2010 no application received for consent is not correct and it is utter false .
2. Running the college and hospital without obtaining EC under EIA notification 2006 is only a non application of mind when the exemption category is under consideration before SEIAA -TN, first respondent herein as per MOEF &CC notification dated 22-12-2014 and 15-11-2018 and as per the objections filed against the joint committee report before this Hon'ble Tribunal.

C. B. Palaniw
 X REGISTRAR
 Dr. M.G.R.
 EDUCATIONAL AND RESEARCH INSTITUTE
 DEEMED TO BE UNIVERSITY
 Periyar E.V.R. High Road,
 Maduravoyal, Chennai - 600 045.

3. The project of educational institutions of college, hostels, and hospital having total 78,000 sq.mtr is admitted after inspection by the joint committee and as per EIA report submitted by SEAC and considered in SEAC 320 th meeting dated 13-10-2022 and 565 th meeting of SEIAA dated 31-10 2022. Moreover up to 1,50,000 Sq.mtrs built up area is exempted to get prior environmental clearance as per MOEF notifications dated 9-12-2014 and 15-11-2018 and hence the additional building G+3 floors if any without getting EC is not correct and have no force.

4. The study of discharge of Sewage and trade effluent and for utilisation of treated sewage was conducted by Anna University as advised by the SEAC and private agency and the report of NIA is approved and considered by the SEAC and SEIAA-TN and there is no discharge to open land and to the storm water drain are not correct and not acceptable.

In light of the above facts, it is humbly prayed that the report of the TNPCB dated 23.03.2023 shall not be considered as far as objection raised and thus render justice.

Dated at Chennai on this ^{12th} day of ^{August} ~~May~~ 2023.



Counsel for 4th Respondent



REGISTRAR
Dr. M.G.R.
EDUCATIONAL AND RESEARCH INSTITUTE
DEEMED TO BE UNIVERSITY
Periyar E.V.R. High Road,
Maduravoyal, Chennai - 600 095.

4th Respondent