

**IN THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI**

IN

Appeal No. 01 of 2018

IN THE MATTER OF: -

Voice of Nature

....Appellant

VERSUS

Union of India &Ors.

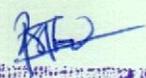
.... Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.1, MINISTRY
OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH: -

I, Dr. R. Sridhar, working as Scientist 'D' in the Regional Office of the Ministry of Environment, Forest and Climate Change, at Chennai, (hereinafter referred to as 'MoEFCC') the deponent herein do hereby solemnly affirm and state on oath as under: -

1. That I am duly authorized and competent to swear the present counter affidavit on behalf of MoEFCC.
2. That the contents of the application, unless specifically admitted, are denied to the extent that they are inconsistent with submissions made hereinafter.
3. It is further submitted that the Answering Respondent is not replying to the present Application in para-wise manner, however, the Answering Respondent craves leave to file a


Scientist D
Ministry of Environment Forests and Climate Change,
Government of India
Regional Office - Chennai

detailed affidavit as and when necessary and required by this Hon'ble Tribunal.

4. It is respectfully submitted that at the outset, the Answering Respondent denies each and every contention, allegations and averments made in the present petition unless specially admitted herein below. The averments of the Application, which are not specially dealt herein below, should be deemed to have been denied. It is respectfully submitted that the instant reply is filed by the Answering Respondent without prejudice to his right to file a fuller and more detailed reply at a later stage, if so necessary.
5. That under the Environment (Protection) Act, 1986 read with Environment (Protection) Rules, 1986, the Answering Respondent has issued a notification number S.O. 1533(E) dated 14.09.2006, (hereinafter referred to as the "EIA Notification, 2006") with its subsequent amendments.
6. That under the provision of the EIA Notification, 2006, construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the schedule annexed to the said notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India, as applicable, only after receipt of the prior environment clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority ("**SEIAA**"). It is


Scientist D
Ministry of Environment Forests and Climate Change
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submitted that, the Central Government under sub Section (3) of section 3 of the Environment Protection Act, 1986 in accordance with the procedures specified in the EIA Notification, 2006, duly constitutes SEIAA.

7. The EIA Notification, 2006 in Paragraph 7, stipulates four stages in the process of obtaining Environmental Clearance, namely, Stage (1) Screening, Stage (2) - Scoping - i.e. prescribing Terms of Reference (TOR) for undertaking detailed Environment Impact assessment studies, Stage (3)- Public Consultation-to be conducted by the respective State /UT Pollution Control Board/Committee, and Stage (4) - Appraisal - by Expert Appraisal Committees (EACs)/ State Level Expert Appraisal Committees (SEACs).

8. It is respectfully submitted that, Environment Impact Assessment Notification of 2006 has decentralized the environmental clearance projects by categorizing the developmental projects in two categories, i.e., Category 'A' project and Category B. The 'Category 'A' projects are appraised at Central level by the Expert Appraisal Committee (EAC) and Category 'B' projects are appraised at State Level Expert Appraisal Committee (SEAC). State Level Environment Impact Assessment Authority (SEIAA) and State Level Expert Appraisal Committee (SEAC) are constituted to provide clearance to Category B process. It is further submitted that, as per "General Condition" under the EIA notification, 2006,


Scientist D
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“Any project or activity specified in Category ‘B’ is treated as Category ‘A’, if located in whole or in part within 5 km from the boundary of (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries”.

9. It is respectfully submitted that the project in question i.e., M/s Asian Paints Limited, approached the answering respondent for the grant of Terms of Reference (ToR) dated 27th April, 2017 with proposal no. IA/TN/IND2/63895/2017. The proposal was for expansion of Synthetic organic chemicals, Pentaerythritol from 560 TPM to 730 TPM and Sodium Formate from 336 MTM to 480 MTM. It is further submitted that this project/activity is covered under category B of item 5(f) ‘Synthetic organic chemicals industry’ of the schedule of the Environmental Impact Assessment Notification, 2006 and requires appraisal at State Level.

<i>Project Activity</i>		<i>Category with threshold limit</i>		<i>Conditions if any</i>
		<i>A</i>	<i>B</i>	
1		<i>Mining, extraction of natural resources and power generation (for a specified production capacity)</i>		
(1)	(2)	(3)	(4)	(5)
5(f)	<i>Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)</i>	<i>Located outside the notified industrial area/ estate</i>	<i>Located in a notified industrial area/ estate</i>	<i>“General as well as specific conditions shall apply.”</i>


 Scientist D
 Ministry of Environment Forests and Climate Change
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10. It is humbly submitted that the Ministry had earlier imposed temporary moratorium on consideration of the projects for environmental clearance which were located in critically polluted areas identified by Central Pollution Control Board vide OM dated 13.01.2010. Later, the Ministry vide OM dated 20.05.2016 and 25.11.2016 had lifted the moratorium for the industrial clusters as CEPI Score was less than 70. Accordingly, the proposal of TOR considered in the Ministry and granted Terms of Reference to M/s Asian Paints Limited, dated 21.12.2017. Paragraph 8 of the Terms of Reference clearly stated that *"You are required to submit the final EIA/EMP report prepared by the consultants accredited with the Quality Council of India/National Accreditation Board of Education and Training (QCI/NABET), to the State Environment Impact Assessment Authority (SEIAA) for grant of Environmental Clearance, within 3 years as per the Ministry's OM No. J- 1/013 /4t 12006-tA.11(t) dated 8th October, 2014."* A copy of the Terms of Reference to M/s Asian Paints Limited, dated 21.12.2017 is annexed herein as Annexure R-1.

11. It is respectfully submitted that the issuance of the Environmental Clearance from the 2nd respondent in Letter No. SEIAA/TN/F. 6495/5(f)/ EC - 06/2018 dated 24/04/2018 under the EIA Notification, 2006 to the 3rd respondent for the expansion of production in its unit in Cuddalore is granted by


Scientist D
Ministry of Environment Forests and Climate Change
Government of India
Regional Office - Chennai

an accurate authority within its jurisdiction. It is further submitted that the appellant is wrongly trying to build a parallel analogy and trying to twist the facts averring that the MoEFCC has disobeyed the provisions of EIA Notification, 2006, hence misleading the Hon'ble Tribunal.

12. It is submitted that the present counter affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.

13. That other/ancillary issues raised in the application under reply do not pertain to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.



DEPONENT

Scientist 'C'
Ministry of Environment Forests and Climate Change
Government of India
Regional Office - Chennai

VERIFICATION

Verified at Chennai on 15 this day of October, 2020 that the contents of the above affidavit are correct to my knowledge and belief based on official records and nothing material has been concealed there from.



DEPONENT

Scientist 'D'
Ministry of Environment Forests and Climate Change
Government of India
Regional Office - Chennai