

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
IN
ORIGINAL APPLICATION NO. 128 OF 2021

IN THE MATTER OF:-

IBRAHIM KARIM

....APPLICANT

VERSUS

**STATE OF KERALA AND
ORS**

....RESPONDENTS

**REPLY ON BEHALF OF MINISTRY OF ENVIRONMENT, FOREST
AND CLIMATE CHANGE.**

MOST RESPECTFULLY SHOWETH:-

I, S. Prabhu , working as Scientist "C" in the Regional Office of the Ministry of Environment, Forest and Climate Change (MoEF&CC), at Bengaluru the deponent herein do hereby solemnly affirm and state on oath as under:-

1. That I am authorized by competent authority to swear the present counter affidavit on behalf of MoEF&CC and I am aware of the facts and circumstances of the case based on record.
2. That the answering Respondent is not replying to the present application in para-wise manner, however, the Answering Respondent craves leave to file a detailed affidavit as and when necessary and required by this Hon'ble Tribunal.



3. That the applicant has filed this application against the ongoing construction of the Multi-Utility Complex (Comprising 11 floors with a total area of 22,351.90 sq.mtr.), upon the land belonging to 1st respondent (by filling enormous area of the 'Klappana-Madatharuvi Stream-cum-wetland basin) in ittiyappara Town of Ranni Taluk in Pathanamthitta District, by the 3rd Respondent without obtaining Environmental Clearance from the Kerala State Environmental Clearance from the Kerala State Environmental Impact Assessment Authority.

4. That the Hon'ble Tribunal vide its order dated 05.08.2021 has directed the Committee as well as other official respondents to file independent statement on or before 02.09.2021. The relevant portion of the order are as follows:

"Considering the circumstances, we feel that some time can be granted to the Committee as well as other official respondents to file report and their independent statements. They are directed to submit the respective report to this Tribunal on or before 02.09.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hard-copies to be produced as per Rules"

5. That the area under dispute comes in a floodplain wetland area of the stream draining into Pampa River downstream and



affected by frequent heavy floods during the last 3 years. As per information received from the State Wetland Authority of Kerala, floodplain wetlands are protected under the Kerala Conservation of Paddy Land and Wetland Act, 2008. Wetlands (Conservation & Management) Rules, 2017" provide that in case a wetland is protected under any other statute, it need not be notified under the said rules. Accordingly, as it is a flood plain wetland, the State Wetland Authority has not considered to include the said wetland in the draft list of wetlands identified for notification under Wetlands (Conservation & Management) Rules, 2017".

6. Further, it is also submitted 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 14th September, 2006 (hereinafter referred to as the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27th January, 1994.

7. That as per the EIA Notification, 2006, the following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said



Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- a. All new projects or activities listed in the Schedule to this notification;
- b. Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- c. Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

8. That the EIA Notification, 2006 also specifies that a SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary; to be nominated by the State Government or the Union Territory Administration concerned. The Member-Secretary shall be a serving officer of the concerned State Government or Union Territory administration familiar with environmental laws.

9. It is submitted that under the provisions of the EIA Notification, 2006, Environment Clearance for Building and Construction Projects & Township and Area Development Projects are covered under entry 8 (a) and (b) of the Schedule to the EIA Notification,



2006. The entry 8(a) and 8(b) of the Schedule of EIA Notification 2006 provides as follows;

8(a): *Building and Construction projects - ≥ 20000 sq. mtrs and < 150000 sq. mtrs of built-up area require EC*

8(b): *Townships and Area Development projects - Covering an area ≥ 50 ha. and or built up area >150000 sq. mtrs require EC*

10. That the aforementioned entries under item 8(a) and 8(b) are qualified as category 'B' projects under the EIA Notification, 2006 and requires appraisal by the State Level Expert Appraisal Committees (SEACs) and approved by the State Level Environment Impact Assessment Authorities (SEIAAs). It is further submitted that in the absence of a duly constituted SEIAA/SEAC, a category 'B' project shall be considered at the Central Level as category 'B' project.

11. Further, as stated in para 4 above, it is pertinent to mention that the projects or activities of the Project Proponent, as reported, is falling under category 'B', and it requires a prior environmental clearance from the concerned regulatory authority i.e. State Level Expert Appraisal Committees (SEACs) and State Level Environment Impact Assessment Authorities (SEIAAs).



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
Dr. S. PRABHU
Scientist 'C'

Ministry of Environment, Forest and Climate Change,
Regional Office, South Zone,
Kendriya Sahan, 4th Floor, Koramangala
Bangalore-560 034.

VERIFICATION

Verified at Bengaluru on 28th this day of September, 2021
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
Dr. S. PRABHU
Scientist 'C'

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