

BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE

AT CHENNAI

ORIGINAL APPLICATION NO. 13 of 2020

Padma Kodali,
W/o Kodali Srinivasa Rao,
Harvanahalli Village,
Chilakanahatti Post, Hosapete Taluk,
Ballari District, Karnataka State
Email: srinivaskodali1958@gmail.com

...Applicant

-VS-

1. State Environmental Impact Assessment Authority
Environment and Forest Department,
Represented by its Member Secretary,
M.S. Building, IV-Gate, 7th Floor,
Bengaluru - 560 001.
Karnataka State
Email: msseiaakarnataka@gmail.com
2. Karnataka State Pollution Control Board,
Rep. by its Member Secretary,
"Parisara Bhavana", 1st to 5th Floor,
No. 49, Church Street,
Bengaluru - 560001.
Karnataka State
Email: memsecy@kspcb.gov.in
3. M/s. Sree Sai Industries
Sy. Nos. 36/C1 & 36/C2
Haruvanahalli Village,
Hosapete Taluk, Ballari District
Karnataka State
Email: arjunkbs@gmail.com

...Respondents

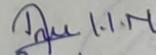
COUNTER AFFIDAVIT OF RESPONDENT NO. 3

I, H.M. Anu, wife of Mr. Suru Gangaraj, aged about 37 years, proprietor of M/s.Sree Sai Industries, a proprietorship firm, having office at Sy. Nos. 36-C1 & 36-C2, Haruvanahalli Village, Hospet Taluk, Ballari District, and presently at Bengaluru, do hereby solemnly affirm and sincerely state as follows:

1. I submit that I am the sole proprietor of the Respondent No. 3 herein. I submit that I am well acquainted with the facts and circumstances of the case. I submit that I am competent to depose this Affidavit.
2. I submit that the Applicant has preferred the captioned Original Application seeking this Hon'ble Tribunal, *inter alia*, (a)to direct the Respondents Nos. 1 & 2 to take legal action against Respondent No. 3 for starting construction of the said industry in the 1st week of October, 2019, allegedly without obtaining all the required statutory clearances from concerned authorities; (b) to direct the Authorities to give directions to

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Respondent No. 3 for dismantling all of the already constructed concrete structures and punish Respondent No. 3 under the rule of law as specified in EIA Notification 2006 for starting the construction before obtaining EC, CFE from Respondent Nos. 1 and 2 respectively (c) impose costs on the responsible to reimburse the cost in approaching this Hon'ble Tribunal if the same is found genuine and proper and deem fit in view of this Hon'ble Tribunal under Section 23 (i) of the NGT Act. I submit that the instant Counter Affidavit is being preferred in response to the allegations leveled by the Applicant in the captioned Original Application.

3. I submit that all the averments made by the Applicant in the captioned Original Application are denied as being false, frivolous and vexatious, except those that are specifically admitted herein. I submit that no averment shall be deemed to have been admitted for want of specific traversal. I submit that the Applicant has intentionally misled this Hon'ble Tribunal by making false allegations. I submit that the Applicant is guilty of *suppressio veri* and *suggestio falsi*; as explained hereinbelow and for this reason alone the captioned Original Application is liable to be dismissed.
4. At the outset, despite having obtained the Environmental Clearance for operating a Cement Grinding Unit, the Respondent No. 3 has neither commenced building the factory nor has commenced any operation, for Cement Grinding Unit. I submit that the Applicant is well aware of the same, and has nevertheless, preferred the captioned Original Application frivolously.
5. I submit that the captioned Original Application is liable to be dismissed, *inter alia*, for the following reasons: (i) the Respondent No. 3 has established and is operating a consented Ground Granulated Blast Furnace Slag manufacturing unit with all the necessary approvals and not a cement grinding unit; (ii) the Applicant has intentionally misrepresented the facts and is guilty of *suppressio veri* and *suggestio falsi*; (iii) the Applicant has come with unclean hands; and (iv) all of the Applicant's allegation are unsubstantiated;

I. THE RESPONDENT NO. 3 HAS ESTABLISHED AND IS OPERATING A CONSENTED GROUND GRANULATED BLAST FURNACE SLAG MANUFACTURING UNIT AND NOT A CEMENT GRINDING UNIT

6. I submit that the Respondent No. 3 had sought approval for "Mineral Benefication & Ground Granulated Blast Furnace Slag Manufacturing"



unit, from the Department of Industries and Commerce, Government of Karnataka. The District Level Single Window Clearance Committee Ballari, Department of Industries and Commerce, Government. of Karnataka, *vide* No.DIC/BLY/DLSWA/152/4.13/2019-20/271, dated, 13.06.2019, had approved the project proposal of the Respondent No. 3 for "Mineral Benefication & Ground Granulated Blast Furnace Slag Manufacturing" unit. I submit that in the said approval the District Level Single Window Committee had permitted the Respondent No. 3 to establish the said project at Sy. Nos. 36-C1 & 36-C2 at Hauvanahalli, Hosapete Taluk, Ballari District, to an extent of total 6.21 Acres, and at Sy. No. 36-B at the same taluk, to an extent of 0.82 acres of government land. I submit that the lands in Sy Nos. 36-C1 & 36-C2 were then to be acquired by Karnataka Industrial Area Development Board (KIADB) under the single unit complex and leased to the Respondent No.3 for the project. I submit that the land in Sy. No. 36-B was supposed to be obtained on lease by the Respondent No. 3 from the government.

7. I submit that GGBS is Ground Granulated Blast Furnace Slag, and is used as an ingredient in ready mix concrete manufacturing units. I submit that Ground Granulated Blast Furnace Slag and Cement are completely different products.
8. I submit that the Ground Granulated Blast Furnace Slag is an orange category industry and not covered under the EIA 2006 Notification, and therefore, does not require Environmental Clearance. I submit that pursuant to the application preferred by the Respondent No.3, the Respondent No. 2 had issued the Consent for Establishment of the Ground Granulated Blast Furnace Slag manufacturing unit to the Respondent No. 3 *vide* Consent Order No. CTE-315040, dated 26.09.2019. I submit that the said Consent For Establishment is valid upto 27.08.2024. I submit that pursuant to the application preferred by the Respondent No. 3, the Respondent No. 2 had issued the Consent For Operation *vide* Combined Consent Order No. AW-322582, dated 30.12.2020, for the Respondent No. 3 to operate the GGBS manufacturing unit. I submit that the Respondent No. 3 had applied to the Grampanchayath seeking No Objection Certificate for the GGBS manufacturing unit, on 20.08.2019 and 11.12.2019. I submit the Grampanchayath had issued a No Objection Certificate *vide* Letter dated 15.10.2020.



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9. I submit that after obtaining: (i) Approval from District Level Single Window Clearance Committee, Ballari; (ii) the Consent for Establishment; (iii) the Consent for Operation; and (iv) the No Objection Certification from the Grampanchayath, the Respondent No. 3 began the construction of the Ground Granulated Blast Furnace Slag manufacturing unit at land situated at Sy. Nos. 36-C1 & 36-C2 at Haruvanahalli, Hosapete Taluk, Ballari District.
10. I submit that the land on which the Ground Granulated Blast Furnace Slag manufacturing unit has been constructed was acquired by the State Government of Karnataka *vide* G.O. CI-36 SPQ(E) 2019, Bengaluru dated 29.06.2019, to be allotted to the Respondent No. 3. I submit that the land on which the Ground Granulated Blast Furnace Slag manufacturing unit has been constructed has been declared as Industrial area by the Government of Karnataka. I submit that therefore they are automatically classified to be used for industrial purposes including Ground Granulated Blast Furnace Slag manufacturing unit. I submit that the said land was allotted to the Respondent No. 3 on lease-cum-sale basis by KIADB *vide* Allotment Letter No. KIADB/HO/Allot/SUC-22926-2812/2020-21, dated 22.07.2020. I submit that KIADB issued with possession certificate for the said land to the Respondent No. 3 *vide* No.KIADB/BALLARI/DO/234/2020-21, dated 05.08.2020. I submit that even though the District Level Single Window Clearance Committee had granted approval for constructing the unit in land in Sy. No. 36-B at Haruvanahalli, Hosapete Taluk, Ballari District, the Respondent No. 3 did not make use of the said land.
11. I submit that post the completion of the construction of the Ground Granulated Blast Furnace Slag manufacturing unit the Respondent No. 2 issued the Consent For Operation *vide* Combined Consent Order No. AW-322582, dated 30.12.2020. I submit that after obtaining the Consent for Operation, the Respondent No. 3 commenced manufacturing of the Ground Granulated Blast Furnace Slag from the unit on 11.02.2021.
12. I submit that the Respondent No. 3 with an intention to establish and operate a Cement Grinding Unit in the said land, had applied for Environmental Clearance from the Respondent No. 1. I submit that after due consideration of the application, the Respondent No.1 was pleased to issue the Environmental Clearance (hereinafter "EC") for establishment of Cement Grinding Unit to the Respondent No. 3 at the said land *vide* No.SEIAA 34 IND 2019, dated 11.12.2019. I submit that thereafter the



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District Level Single Window Clearance Committee Ballari, Department of Industries and Commerce, Government of Karnataka, vide No.DIC/BLY/DLSWA/156/11/2020-21/405, dated 12.10.2020 approved the proposal of the Respondent No. 3 to establish and operate a Cement Grinding Unit in the said land already allocated to the Respondent No. 3 for established of Ground Granulated Blast Furnace Slag manufacturing unit. I however submit that the Respondent No. 3 has not even commenced the construction of the Cement Grinding Unit, and therefore it logically flows that the Respondent No. 3 has not commenced the operation of the Cement Grinding Unit. I submit the Respondent No. 3 proposes to establish and operate the Cement Grinding Unit only after seeking the remaining approvals from the appropriate authorities, and shall not commence the construction or the operation of the Cement Grinding Unit without obtaining the required approvals.

13. I submit that all the required approvals for construction and operation of the Ground Granulated Blast Furnace Slag manufacturing unit were duly sought for by the Respondent No. 3 and issued by the appropriate authorities. I submit that Ground Granulated Blast Furnace Slag manufacturing is performed in a closed shed and dust collectors and bag filters are used in the unit to avoid any pollution. I submit that the Ground Granulated Blast Furnace Slag manufacturing unit was duly constructed and the Respondent No. 3 commenced production of Ground Granulated Blast Furnace Slag only on 11.02.2021.
14. I submit that in the land in Sy. Nos. 36-C1 and 36-C2, the Respondent No. 3 has constructed and is operating a Ground Granulated Blast Furnace Slag manufacturing unit and not Cement Manufacturing Unit, as wrongly alleged by the Applicant. I submit that the fact that the Respondent No. 3 has established only a Ground Granulated Blast Furnace Slag manufacturing unit in the said land substantiated by the has also been Joint Inspection Report, dated 18.03.2021, of the State Environmental Impact Assessment Authority, and Karnataka State Pollution Control Board, filed in furtherance to the directions of this Hon'ble Tribunal. I submit that however to the shock and surprise of the Respondent No.3 the Applicant makes no whisper about the Ground Granulated Blast Furnace Slag manufacturing and, with *mala fide*, wrongly alleges that the Respondent No.3 is operating Cement Grinding Unit. I submit that the Applicant made no averment whatsoever about the Ground Granulated Blast Furnace Slag manufacturing unit. I therefore

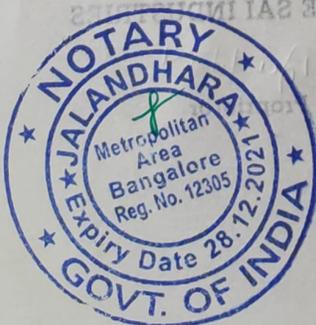


submit that the captioned Original Application is liable to be dismissed on this ground alone.

15. I submit that the apprehension of the Applicant as averred in the captioned Original Application is based on the misrepresentation that the Respondent No. 3 is constructing a Cement Grinding Unit, and since the Respondent No. 3 is operating only a Ground Granulated Blast Furnace Slag manufacturing unit, the captioned Original Application is liable to be dismissed on this ground alone.

II. THE APPLICANT HAS INTENTIONALLY CONCEALED THE FACT THAT HER POULTRY BUSINESS IS OPERATING WITHOUT PROPER APPROVAL

16. I submit that the Applicant's claim that her poultry is about 200 meters from the Ground Granulated Blast Furnace Slag manufacturing unit is denied as being false, frivolous, and vexatious, and the Applicant is put to strict proof of the same. I submit that the Applicant's poultry unit, albeit being run without proper approval, is at a distance of 463.62 meters from the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that therefore it is highly unlikely the Applicant is affected by the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that that Ground Granulated Blast Furnace Slag manufacturing is performed in a closed shed with sufficient safe guards to avoid pollution, and therefore, a poultry situated at a distance of 463.62 meters from the unit is unlikely to be affected. I submit that therefore the captioned Original Application is liable to be dismissed on this ground also.
17. I submit that the averment of the Applicant that she has been running a poultry business consisting of 1.5 lakhs layer birds is not sustainable. I submit that as per Environmental guidelines for Poultry Farms of August 2021 released by the Central Pollution Control Board, poultry farms handling birds above 25,000 at a single location will have to obtain consent to establish and consent to operate under the Water (Prevention & Control Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act, 1981 from the respective state pollution control board. I submit that it has been clearly stated in the Joint Inspection Report of State Environmental Impact Assessment Authority (SEIAA) dated 18.03.2020 (the "**First Joint Committee Report**"), that the activity of running a poultry business with 1.5 lakhs layer birds is an activity requiring Consent for establishment & Consent for Operation in



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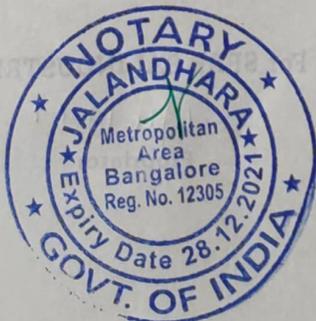
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accordance with Water (Prevention & Control Pollution) Act 1974 and the Applicant has not obtained any such approvals from the KSPCB. Hence, the Applicant herself having approached this Hon'ble Tribunal with unclean hands and with *mala fide* intention to cause injury and harm to the Respondent No. 3 through misrepresentation, and on this ground, the present Original Application is liable to be dismissed.

18. I submit that the Applicant has completely and purposely concealed the fact that the Respondent No. 3 is still awaiting further clearances from the relevant authorities and has neither constructed nor begun operating the Cement Grinding Unit. I submit that the Applicant has further made it out as if the Respondent No. 3 has illegally attempted to establish the Cement Grinding Unit, whereas, the Respondent No. 3 has applied for all approvals and has obtained only an EC *vide* No.SEIAA 34 IND 2019, dated 11.12.2019 following due procedure of law on the criteria of sustainable development, subject to compliance to certain conditions, and is awaiting other approvals.

III. THE JOINT COMMITTEE REPORT REVEALS THE INTENTIONAL MISREPRESENTATION OF FACTS BY THE APPLICANT

19. I submit that the allegations leveled by the Applicant that the Cement Grinding Unit of the Respondent No. 3 is not even 10 meters away from the Heere-kere and the Hosa-kere lakes is nothing more than a concoction of the Applicant's wild imagination. I submit that as has been pointed out in the First Joint Committee Report, Heere-kere is at a distance of about 120 meters and Hosa-kere is at a distance of about 1.5KM from the boundary of the project site. I submit that the Applicant has manufactured wild and untenable allegations so as to prejudice this Hon'ble Tribunal without an iota of evidence to back the allegations leveled by her.
20. I submit that the Applicant has purposely and intentionally concealed the fact that the land upon which the Respondent No. 3's unit is situated is a notified industrial area. I submit that the Applicant, being well aware that disclosing the same would immediately jeopardize the captioned Original Application has raised allegations regarding the lands surrounding that of the Respondent No. 3. However, I submit that the land allotted to the Respondent No. 3 is bounded by road towards West, Govt. land to the East and North and another industry which is not in operation to the



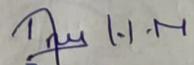
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South-West & another industry which is under operation to the South-West.

21. I submit that the Applicant has intentionally misrepresented facts and stated that the Respondent No.3's unit is 450 meters from Nandibanda Reserve Forest, whereas the First Joint Committee Report has clearly stated that the unit is 540 meters from the said forest. I submit that the Applicant has not produced any documentary evidence to substantiate the claim that the Nandibanda reserve Forest is situated at 450 meters from the Ground Granulated Blast Furnace Slag manufacturing unit, however, the Joint Committee has provided its findings after due inspections. I submit that it is worth pointing out that all these facts and circumstances were taken into consideration before granting Consent to operate in respect of the Ground Granulated Blast Furnace Slag manufacturing unit and later, EC in respect of the Cement Grinding Unit and hence, the present Original Application is liable to be dismissed.
22. I submit that the Applicant has deliberately stated that parts of the land allotted to the Respondent No. 3 are as close as 100 meters to the notified Bandri Reserve Forest in an attempt to mislead this Hon'ble Tribunal. I submit that as has been clearly stated in the First Joint Committee Report, the Bandri Reserve Forest is 1419 meters away from the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that the Applicant has not produced any documentary evidence to substantiate the claim that the Bandri Reserve Forest is situated at 1419 meters from the Ground Granulated Blast Furnace Slag manufacturing unit, however, the Joint Committee has provided its findings after due inspections.
23. I submit that that Chilakanahatti Palmyra Reserve is not at a distance of 1000 meters from the Ground Granulated Blast Furnace Slag manufacturing unit as stated by the Applicant, but rather at a distance of 2.93 kilometers as has been stated in the First Joint Committee Report. I submit that the Applicant has not produced any documentary evidence to substantiate the claim that the Chilakanahatti Palmyra Reserve is situated at 1000 meters from the Ground Granulated Blast Furnace Slag manufacturing unit, however, the Joint Committee has provided its findings after due inspections. I further submit that the Maagaani wetlands are not at a distance of 200 meters from the Ground Granulated Blast Furnace Slag manufacturing unit as has been stated by the Applicant but rather at a distance of 806.5 meters as has been stated in the First Joint Committee Report. I submit that the Applicant has not

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produced any documentary evidence to substantiate the claim that the Maagaani wetlands is situated at 200 meters from the Ground Granulated Blast Furnace Slag manufacturing unit, however, the Joint Committee has provided its findings after due inspections.

24. I submit that it is also pertinent to note that the Applicant has deliberately portrayed it as though the Ground Granulated Blast Furnace Slag manufacturing unit is at a distance of 425 meters from the nearest national highway and hence in violation of CPCB guidelines which stipulates a minimum of 500 meters from any national highway. I submit that however, as has been revealed from the First Joint Committee Report, the Ground Granulated Blast Furnace Slag manufacturing unit is located at a distance of 555 meters from the nearest national highway. I submit that the Applicant has not produced any documentary evidence to substantiate the claim that the Ground Granulated Blast Furnace Slag manufacturing unit is at a distance of 425 meters from the nearest national highway, however, the Joint Committee has provided its findings after due inspections.
25. I also submit that the Applicant has falsely stated that Danayakana-kere is at a distance of 2 kilometers from the Ground Granulated Blast Furnace Slag manufacturing unit, whereas the First Joint Committee Report has already revealed that Danayakana-kere is at a distance of 4.02 Km from the boundary of the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that the Applicant has not produced any documentary evidence to substantiate the claim that the Danayakana-kere is situated at 2 kilometers from the Ground Granulated Blast Furnace Slag manufacturing unit, however, the Joint Committee has provided its findings after due inspections. I submit that the Applicant has intentionally misrepresented facts so as to portray the Respondent No. 3 is in violation of laws with a view to prejudice this Hon'ble Tribunal. I submit that on all these grounds, the captioned Original Application is liable to be dismissed.
26. I submit that the Applicant has stated that several objections have been raised by farmers in the locality opposing the establishment of cement industries in the area. However, I submit that the First Joint Committee Report clearly states that no such complaints have been received from farmers, which would indicate that the Applicant has fabricated false evidence to mislead this Hon'ble Tribunal.



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27. I submit that the Applicant has made repeated averments that the Respondent No. 3 is operating a unit without valid authorisation to operate the same. I humbly submit that the Respondent No. 3 has obtained consent to operate and establish the Ground Granulated Blast Furnace Slag Manufacturing unit and it is under operation. I submit that the Respondent No. 3 has also obtained EC for the Cement Grinding Unit by following the process as stipulated by law and is currently waiting for all other approvals.
28. I submit that the Applicant admitted that the Applicant has preferred the instant Application without gathering any valid information required for the purposes of filing the present Application as the same would be time consuming and has called upon this Hon'ble Tribunal to ascertain the allegations raised by the Applicant. I submit that the Applicant has admitted that the Applicant has not even gathered any actionable material to file the present Application and all of the allegations leveled by the Applicant are nothing more than conjectures, which the Applicant has conveniently left to this Hon'ble Tribunal to determine. I submit that that for this reason alone, the present Application is liable to be dismissed, as there is no iota of truth or verified facts to support the claims of the Applicant.
29. I further submit that the Applicant has averred in the Original Application that the EC was granted to the Respondent No. 3 without an inspection by the State Expert Appraisal Committee (SEAC). I submit that the EC was granted after following the due process of law.
30. I submit that the Applicant has further alleged in the Original Application that the cement manufacturing process is one that generates intense heat as it is a coal based activity, as a result of which the environment would be affected, as well as large amounts of Carbon Dioxide and other toxic gases would be released into the atmosphere. I submit that it has further been alleged that the scenic beauty of the surrounding area would be affected as well as pollutants would be carried and settled on the nearby forests. In this regard, I submit that the Applicant has made unfounded allegations against the Respondent No. 3 and there arises no question of coal based activities being carried out by the Respondent No. 3. I submit that the Respondent No. 3 proposes to establish and operate a Cement Grinding Unit as opposed to a Cement manufacturing Unit, and therefore the Respondent No. 3 will not manufacture clinker by burning lime stone & coke. I submit that the Respondent No. 3 will be directly purchasing



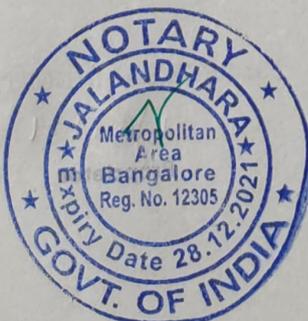
clinker from producers and grind the same with slag, Gypsum and fly ash to produce Cement, and the said process has been duly recorded in the First Joint Committee Report. I further submit that all safe guards as directed by the appropriate authorities will be taken by the Respondent No. 3 at the time of establishment of the proposed Cement Grinding Unit.

31. I submit that the Applicant has made several allegations in the Original Application stating that there is no ground for classifying the Respondent No. 3 unit as a "B2" category unit as per the EIA Notification, 2006. I submit that the Respondent No. 3 intends to transport clinker from Sedam which is at a distance of 299 kilometers to the nearest railway station & the Gypsum transported from the Tuticorn which is at a distance of 908 kilometers by railway. I submit that the Clinker and Gypsum is transported to the industrial site by road distance of 16.92 Km. I submit that therefore > 90% of the distance is covered by rail. Further, As per the office memorandum dated 24.12.2013 issued by MoEF & CC,GOI, the Cement Grinding Units involving >90% of the transportation of raw materials and finished products are to be appraised as B2 category industries. I submit that this would adequately answer the question as to how the Respondent No. 3 came to apply for EC under the B2 category. I submit that, with regard to the unsubstantiated numbers put forth by the Applicant to point out that INR 3 Crores would be insufficient to establish the Cement Grinding Unit. I submit that the Applicant has arrived at arbitrary figures without any evidence to substantiate the same. I submit that the Respondent No. 3 has obtained EC by stating the exact facts and figures as would be deployed by the Respondent No. 3.

32. I submit that the Applicant has put forth her allegations on the assumption that the Respondent No. 3 has started operating the Cement Grinding Unit as a consequence of which the Applicant is being put to hardship. I submit that the Applicant has completely and purposely concealed the fact that the Respondent No. 3 is still awaiting further clearances from the relevant authorities and has not begun operating the Cement Manufacturing Unit. I submit that the Applicant has further made it out as if the Respondent No. 3 has illegally attempted to establish the Cement Grinding Unit, whereas, the Respondent No. 3 has applied for all approvals and has even obtained EC following due procedure of law on the criteria of sustainable development, subject to compliance to certain conditions.

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33. I submit that the entire allegation of the Applicant that the Respondent No. 3 had begun construction of the Cement Grinding Unit even prior to obtaining EC is completely false and without any iota of evidence and contra to the facts. I submit that it is reiterated that the Respondent No. 3 has established and is operating a KSPCB approved Ground Granulated Blast Furnace Slag manufacturing unit, and the Applicant has misrepresented the same to be the Cement Grinding Unit so as to cause harm to the Respondent No. 3.
34. I submit that the Applicant has repeatedly made patently false and frivolous allegations against the Respondent No. 3 and has not provided any proof to substantiate the claims made by her. I submit further that the Applicant, without any substantiation, has repeatedly alleged irregularities in the method by which the EC *vide* No. SEIAA 34 IND 2019, dated 11.12.2019 was obtained from the Respondent No. 1. I submit that the Applicant has purposely and intentionally attempted to mislead this Hon'ble Tribunal by attempting to misrepresent the operation of the KSPCB approved Ground Granulated Blast Furnace Slag manufacturing unit as being a Cement Grinding Unit and for these reasons, the present Original Application is liable to be dismissed.
35. I submit that the following is a para-wise reply to the allegations raised by the Applicant in the captioned Original Application.

Parawise Reply:

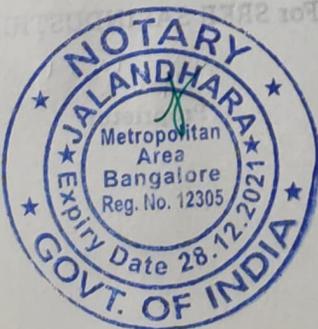
36. Reply to Paragraph Nos. 1 to 3: I submit that the averment relating to the poultry business of the Applicant stated in paragraph nos. 1,2 and 3 are not within the specific domain of knowledge of the Respondent No. 3. Therefore, the Applicant is put to strict proof of the same. I submit that the Applicant has stated that she has been running a poultry business consisting of 1.5 lakhs layer birds. However I reiterate and reaffirm my submission as stated in Para 16 of the instant Counter Affidavit, that the poultry business with 1.5 lakhs layer birds requires Consent for establishment & Consent for Operation in accordance with Water (Prevention & Control Pollution) Act 1974 and the Applicant has not obtained any such approvals from the KSPCB.
37. Reply to Paragraph No. 4: I submit that the Respondent No. 3 was issued with an EC for establishment of a Cement Grinding Unit and therefore the content for the specific paragraph requires no traversal.



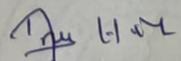
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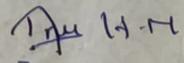
38. Reply to Paragraph 5: I submit that the allegation leveled by the Applicant that the Respondent obtained EC from the SEIAA, Karnataka based on fabricated and concealed data is completely vexatious and frivolous and the Applicant is put to strict proof of the same. I state that the allegation in the paragraph under reply regarding the Applicant's communication with the SEAC members are within the specific domain of knowledge of the Applicant and therefore the Applicant is put to strict proof of the same.
39. Reply to Paragraph 6: I submit that the the averments made in this paragraph are denied as being false, frivolous and vexatious. I submit that the contents of Paragraph 30 of the instant Counter Affidavit are being reiterated as a reply to the averments made in the paragraph under reply. I submit that the averment in the paragraph under reply stating that the proposed Cement Grinding Unit will put Applicant's poultry to risk is unsubstantiated and a figment of the Applicant's imagination, the Applicant is put to strict proof of the same.
40. Reply to Paragraph No. 7: I submit that the allegations in the paragraph under reply relating to the other existing industries in the industrial area are not within the domain of knowledge of the respondent No. 3 and therefore, the Applicant is put to strict proof of the same.
41. Reply to Paragraph No. 8 (a): I submit that the averments made in this paragraph are denied as being false and unsubstantiated, and is in contradiction to the First joint Committee Report. I submit that the contents of Paragraph 18 of the instant Counter Affidavit may be treated as a reply to the averments made in the paragraph under reply.
42. Reply to Paragraph Nos. 8 (b) & (c) of the Original Application: I submit that the averments made in this paragraph are denied as being false, frivolous and vexatious and are unsubstantiated. I submit that the Applicant is put to strict proof of the same. I submit that the contents of Paragraph 19 of the instant Counter Affidavit may be treated as a reply to the averments made in the paragraph under reply.
43. Reply to Paragraph No. 8 (d): I submit that the averments made in the paragraph under reply are not relating to the Respondent No. 3, and therefore is not within the specific domain of knowledge of the Respondent No. 3. Hence, the Applicant is put to strict proof of the same.



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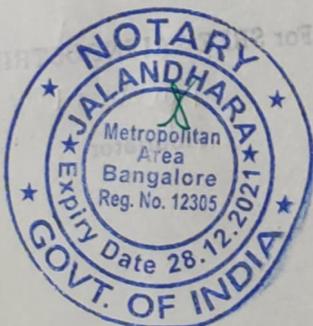

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44. Reply to Paragraph No. 8 (e): I submit that the agricultural man-made habitat of 1.5 lakhs layer birds referred to is none other than the unauthorised and illegal poultry business being allegedly run by the Applicant. I submit that it is pertinent to note that the Applicant, who is running an unauthorised business, has approached this Hon'ble Tribunal with unclean hands, and has leveled unfounded allegations against the Respondent No. 3 who has obtained all requisite approvals and permissions from the relevant authorities. I also reiterate my submission that the Respondent No. 3 has not even begun to operate the Cement Grinding Unit and is currently only operating a Ground Granulated Blast Furnace Slag manufacturing unit.
45. Reply to Paragraph 8 (f): I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the said averments are in contradiction to the First Joint Committee Report and the Applicant is put to strict proof of the same. I submit that the contents of Paragraph 20 of the instant Counter Affidavit may be treated as a reply to the paragraph under reply.
46. Reply to Paragraph No. 8 (g): I submit that averments in the paragraph under reply are devoid of even an iota of truth and are a pure creation of the Applicant's imagination. I submit that the said averments are in contradiction to the First joint Committee Report and the Applicant is put to strict proof of the same. I submit that the contents of Paragraph 21 of the instant Counter Affidavit may be treated as a reply to paragraph under reply.
47. Reply to Paragraph No. 8 (h): I submit that the averments made in this paragraph are denied as being false, frivolous and vexatious, and unsubstantiated. I submit that the said averments are in contradiction to the First joint Committee Report and the Applicant is put to strict proof of the same. The contents of Paragraph 22 of the instant Counter Affidavit may be treated as a reply to the said averments.
48. Reply to Paragraph No. 8 (i): I submit that the averments made in this paragraph are denied as being false, frivolous and vexatious, and unsubstantiated. I submit that the said averments are in contradiction to the First Joint Committee Report and the Applicant is put to strict proof of the same. The contents of Paragraph 22 of the instant Counter Affidavit may be treated as a reply to the said averments.


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49. Reply to Paragraph No. 8 (j) of the original Application: I submit that the averments made in paragraph under reply are denied as being false, frivolous and vexatious, and substantiated. I submit that the said averments are in contradiction to the First Joint Committee Report. I submit that the nearest national highway is more than 500 meters from the Ground Granulated Blast Furnace Slag manufacturing unit. The contents of Paragraph 23 of the instant Counter Affidavit may be treated as a reply to the said averments.
50. Reply to Paragraph No. 8 (k): I submit that the very purpose of notifying and setting up an industrial area is to encourage the growth of industries, and the Respondent No. 3 having established their unit in a KIADB notified industrial area is well within their rights to own and operate their Ground Granulated Blast Furnace Slag manufacturing unit. However, I reiterate that the Cement Grinding Unit which has been approved of by the Respondent No. 1 has still not been established. I submit that the Applicant has not produced any documentary evidence to substantiate her claims of synergistic pollution that may be caused by the proposed Cement Grinding Unit.
51. Reply to Paragraph No. 8 (l): I submit that the averments made in the paragraph under reply are not under the specific domain of knowledge of the Respondent No. 3 and the Applicant is put to strict proof of the same.
52. Reply to Paragraph No. 8 (m): I submit that the averments contained therein are irrelevant to the present Original Application as it pertains to one M/s. Rosvar, a sponge iron industry, and hence requires no specific traversal and the Applicant is put to strict proof of the same.
53. Reply to Paragraph No. 8 (n): I submit that the Applicant has been completely ignorant of the fact that the land on which the Respondent No. 3's Ground Granulated Blast Furnace Slag manufacturing unit is situated, i.e., survey numbers 36/C1 and 36/C2, have been notified as industrial area by KIADB and the same has also been confirmed in the First Joint Committee Report. Hence, the averments of the Applicant in the said paragraph are denied as being false, frivolous and vexatious.
54. Reply to Paragraph No. 9: I submit that the averments made in this paragraph are denied as being false, frivolous and vexatious. I submit that the respondent No. 3 did not fabricate any data for availing the EC



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for the Cement Grinding Unit, and the Applicant has made these allegations without any substantiation and with *mala fide*. I submit that the Applicant is put to strict proof of the same. I submit that the contents of Paragraph 30 of the instant Counter Affidavit may be treated as a reply to the said averments.

55. Reply to Paragraph No. 10: I submit that the area in which the project site of the Respondent No. 3 is situated is a KIADB notified industrial area. I submit that the Applicant is not entitled to the relief claimed therein, especially since the Applicant herself does not possess the requisite authorisation to establish and operate her unit.
56. Reply to Paragraph No. 11 of the Original Application: I submit that the averments in the said paragraph under reply are not within the specific domain of knowledge of the respondent no. 3 and the Applicant is put to strict proof of the same. I further submit that the allegations made by the Applicant relating to the agriculture activities being ruined by the proposed Cement Grinding Unit is unsubstantiated.
57. Reply to Paragraph Nos. 12, 13, 14, 15 and 16: I submit that the averments made in the paragraphs under reply are not within the specific domain of knowledge of the Respondent No. 3 and the Applicant is put to strict proof of the same.
58. Reply to Paragraph No. 17: I submit that the averments in the paragraph under the reply relating to objections preferred by the villagers to the local authorities are not within the specific domain of knowledge of the Respondent No. and therefore the Applicant is put to strict proof of the same. I submit that the averment in the paragraph under reply that the construction of the Cement Grinding Unit has started in October without obtaining the requisite permission is denied as being false, frivolous and vexatious. I submit that the respondent no. 3 did not commence construction of the Cement Grinding Unit.
59. Reply to Paragraph No. 18: I submit that the averments contained in the paragraph under reply that the Respondent No. 3 has commenced construction of the Cement Grinding Unit is denied as being false, frivolous and vexatious and the Applicant is put to strict proof of the same.
60. Reply to Paragraph No. 19: I submit that the averments in the paragraph under reply are denied as false, frivolous and vexatious. I submit that the

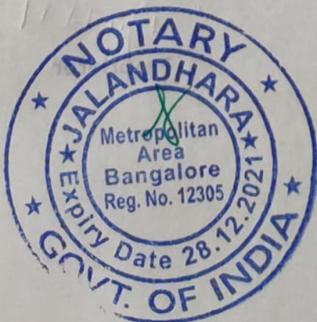


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Respondent No. 3 has only established a Ground Granulated Blast Furnace Slag manufacturing unit on KIADB approved industrial land. I submit that the Respondent No. 3 has not constructed a Cement Grinding Unit as yet. I submit that the Respondent No. 3 has not committed any illegal activity as alleged in the said paragraph. I further submit that the Applicant is put to strict proof of the same.

61. Reply to Paragraph Nos. 20: I submit that the averments made in the paragraph under reply are denied as being unsubstantiated and the Applicant is put to strict proof of the same.
62. Reply to Paragraph No. 21: I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the Respondent No. 3 has followed all the requisite norms for constructions. I submit that the Applicant is put to strict proof of the same.
63. Reply to Paragraph Nos. 22, 23 & 24: I submit that the averments in the paragraphs under reply are not within the specific of knowledge of the Respondent No. 3 and the Applicant is put to strict proof of the same.
64. Reply to Paragraph No. 25: I submit that the averments in the paragraph under reply are denied as being false, frivolous and vexatious and the Applicant is put to strict proof of the same. I submit that averments in the paragraph under reply are unsubstantiated and are a figment of the Applicant's imagination.
65. Reply to Paragraph No. 26: I submit that that the averments in the paragraph under reply are denied as being false, frivolous and vexatious and the Applicant is put to strict proof of the same. I submit that the land on which the Ground Granulated Blast Furnace Slag manufacturing unit is constructed is a industrial area wherein the land was specifically allotted to the Respondent No. 3 by KIADB.
66. Reply to Paragraph No. 27: I submit that the averments in the paragraph under reply are not within the specific domain of knowledge of the Respondent No. 3 and the Applicant is put to strict proof of the same.
67. Reply to Paragraph No. 28: I submit that that the averments in the paragraph under reply are denied as being false, frivolous and vexatious and the Applicant is put to strict proof of the same. I submit that the averments in the paragraph under reply stating that the Respondent No.

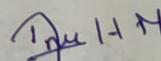


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3 has submitted concealed and fabricated data is unsubstantiated and the Applicant is put to strict proof of the same. I submit that the allegations in the paragraph under the reply relating to SEAC is not within the domain of knowledge of the Respondent No. 3 and the Applicant is put to strict proof of the same. I submit that the First Joint Committee Report itself has stated that EC *vide* No.SEIAA 34 IND 2019, dated 11.12.2019 has been issued considering the information furnished by the proponent in the Form-I, prefeasibility report and other statutory documents submitted by the proponent along with the application following the due procedure of law on the criteria of sustainable development, subject to compliance of certain conditions.

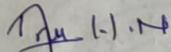
68. Reply to Paragraph a No. 29: I submit that the averments stated in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the Respondent No. 3 submitted all the requisite documents required for obtaining the EC. I submit that the Applicant is put to strict proof of the same.
69. Reply to Paragraph No. 30: I submit that the Respondent No. 3 submitted all the requisite documents and followed the due process for obtaining EC. I submit that the remainder of the averments in the said paragraph are not relating to the Respondent No. 3 and hence do not require specific traversal as they relate to facts within the specific knowledge of the SEAC and the Applicant is put to strict proof of the same.
70. Reply to Paragraph No. 31: I submit that the averments in the paragraph under reply are not within the specific domain of knowledge of the Respondent no. 3 and the Applicant is put to strict proof of the same. However, I submit that the averments in the said paragraph would clearly indicate that the Applicant has preferred the captioned Original Application without even ascertaining basic facts surrounding the Respondent No. 3's Ground Granulated Blast Furnace Slag manufacturing unit. I submit that the Applicant has even gone so far as to shift the burden of proof of the Respondents, thereby shattering all illusions of legitimacy to the Applicant's claims. For this reason alone, the captioned Original Application is liable to be dismissed.
71. Reply to Paragraph No. 32: I submit that averments in the paragraph under reply does not require any specific traversal.

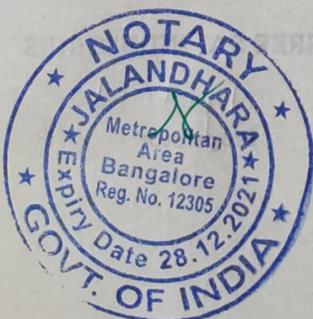
For SREE SAI INDUSTRIES


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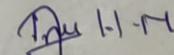


72. Reply to Paragraph Nos. 33 & 34: I submit that the averments made in the paragraphs under reply are denied as being false, frivolous and vexatious. I submit that as per Paragraph 5 (d) of the EIA Notification 2006, site inspection is only optional and not mandatory. I submit that therefore the interpretation of Paragraph 5 (d) of the EIA Notification 2006 is misplaced. I submit that all due processes as per law were followed in issuing EC to the Respondent No. 3 for the Cement Grinding Unit. I submit that the Applicant is put to strict proof of the same.
73. Reply to Paragraph Nos. 35 and 36: I submit that the averments in the paragraphs under reply does not require specific traversal and the Applicant is put to strict proof of the same. I submit that all due processes as demanded under law were followed in issuing EC to the Respondent No. 3 for the Cement Grinding Unit.
74. Reply to Paragraph No. 37: I submit that the averments in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the Applicant has made unfounded allegations against the Respondent No. 3 as there arises no question of coal based activities being carried out by the Respondent No. 3. I submit that the Respondent No. 3 will not manufacture clinker by burning lime stone & coke, and it will purchase clinker from producers and grind the same with slag, Gypsum and fly ash to produce Cement and the same has been recorded in the First Joint Committee Report. I submit that the remaining averments in the paragraph under reply are not within the specific domain of the Respondent No. 3. I submit that the Applicant is put to strict proof of the same.
75. Reply to Paragraph No. 38: I submit that the averments in the paragraph under reply are not within the specific domain of the Respondent No. 3. And the Applicant is put to strict proof of the same.
76. Reply to Paragraph No. 39: I submit that the averments in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the averments in the said paragraph, as stated by the Applicant herself, is a mere figment of imagination of the Applicant and is unsubstantiated. I submit that the Applicant is put to strict proof of the same.
77. Reply to Paragraph No. 40: I submit that the averments in the paragraph under reply are not within the domain of knowledge of the Respondent


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- no. 3 and are unsubstantiated. I submit that the Applicant is put to strict proof of the same.
78. Reply to Paragraph No. 41: I submit that averments in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the averments of the paragraph under reply are unsubstantiated and the Applicant is put to strict proof of the same.
79. Reply to Paragraph No. 42: I submit that the averments in the paragraph under reply are not within the domain of knowledge of the Respondent no. 3. I submit that the Applicant is put to strict proof of the same.
80. Reply to Paragraph No. 43: I submit that averment in the paragraph under reply are hereby denied as being false, frivolous and vexatious. I submit that the averment that the request for exemption from obtaining EC sought for by the Respondent No. 3 to meet his self interest is specifically denied as being false, frivolous and vexatious, and is contradictory to the Applicant's own averments that EC was granted for the proposed Cement Grinding Unit. I submit that the averment in the paragraph under reply that the Respondent no. 3 was supported by the authorities are specifically denied as being false, frivolous and vexatious. I submit that the Applicant is put to strict proof of the same.
81. Reply to Paragraph Nos. 44 and 45: I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the averments in the paragraph under reply are unsubstantiated and the Applicant is put to strict proof of the same.
82. Reply to Paragraph No. 46: I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the contents of the First Joint Committee Report is contradictory to the averments of the Applicant and the Applicant is put to strict proof of the same.
83. Reply to Paragraph Nos. 47 & 48: I submit that the averments made in the paragraphs under reply do not require specific traversal as it relates to matters within the specific knowledge of the Respondent No. 1. I submit that the Applicant is put to strict proof of the same.
84. Reply to Paragraph No. 49: I submit that the averments made in this paragraph are denied as being false, frivolous and vexatious. I submit


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that the Applicant is put to strict proof of the same. I submit that the construction of the Cement Grinding Unit has not commenced. I submit that the EC was granted before the establishment of the Cement Grinding Unit and after following due process of law.

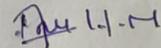
85. Reply to Paragraph No. 50: I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the Applicant is put to strict proof of the same. I submit that the Respondent No. 1 and other government authorities have carried out due diligence and environmental sustainability and thereafter granted clearance for establishment of a Cement Grinding Unit. I submit that the averment in the paragraph under reply is unsubstantiated and the Applicant has not provided any documentary proof for the same.

86. Reply to Paragraph No. 51: I submit that the averments made in the paragraph under reply are denied as being false, frivolous and vexatious. I submit that the Applicant has preferred captioned Original Application with *mala fide* to cause injury to the Respondent No. 3. I submit that the averment in the said paragraph that the captioned Original Application was preferred for the welfare of the public at large is unsubstantiated and the Applicant has not provided any proof for the same.

87. Reply to Ground Nos. 1 to 20: I submit that all the grounds are untenable and devoid of any merit for the reasons stated hereinabove.

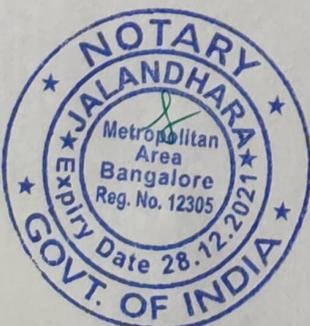
It is therefore most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the captioned Original Application *in limine* with exemplary costs, and pass such further or other orders as this Hon'ble Tribunal deems fit in the circumstances of the case, and thus render justice.

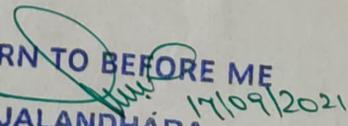
For **SREE SAI INDUSTRIES**


Proprietor
Deponent

Solemnly Affirmed at Bengaluru,
This the 17th day of
September 2021 and the
Deponent signed her
Name in my presence.
Me,

Before



SWORN TO BEFORE ME

JALANDHARA
Advocate & Notary
Govt. of India
26, 4th Cross, Bhoopasandra
R.M.V. 2nd Stage, Bangalore - 560 094
17/09/2021

**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL
SOUTHERN BENCH
Original Application No. 13 of 2020**

Padma Kodali

...Applicant

Versus

State Environmental Impact Assessment
Authority & 2 Others.

...Respondents

**COUNTER AFFIDAVIT FILED BY THE
RESPONDENT NO. 3**

M/S. VIVRTI LAW

**BHARADWAJARAMASUBRAMANIAM R
(ROLL NO. MS.1463/2011)
DIWAAGAR R.S.
(ROLL NO.MS.2425/2012)
AISHWARYA RUKMANI KRISH K
(ROLL NO.MS.1490/2011)
SHILPA SUBRAMANIAN
(ROLL NO.MS.1839/2013)**

COUNSEL FOR THE 3RD RESPONDENT

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