

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

Appeal No. 18 of 2020

Sridevi Datla

Aged about 47 years,
W/o. DRSS Kumar Varma,
R/o. Door No. 10-37-11,
Ramanagar, Visakhapatnam,
Andhra Pradesh - 530002

...APPELLANT

v.

1. UNION OF INDIA

Through the Secretary,
Ministry of Environment Forest and Climate Change
Indira Paryavaran Bhawan,
Jor Bagh, New Delhi - 110003

2. STATE OF ANDHRA PRADESH

Through the Chief Secretary,
Secretariat Building,
Hyderabad.

3. ANDHRA PRADESH POLLUTION CONTROL BOARD

Through the Member Secretary,
D. No. 33-26-14 D/2,
Near Sunrise Hospital,
Pushpa Hotel Centre,
Chalamvari Street,
Kasturibaipet, Vijayawada - 520 008

4. BHOGAPURAM INTERNATIONAL AIRPORT CORPORATION LTD.

Through the Managing Director,
1st Floor, FDC Complex,
AC Guards,
Hyderabad - 500 028

5. GMR Visakhapatnam International Airports Limited

Through Authorised Signatory,
Mr. Manomay Rai
Registered Office
10-1-43, Flat No. 202, Second Floor,
Siripuram Fort, Siripuram,
Visakhapatnam - 530003
Andhra Pradesh

...RESPONDENTS

WRITTEN SUBMISSIONS ON BEHALF OF THE 5th RESPONDENT

A. Background

1. Respondent No.5, GMR Vishakapatnam International Airport Ltd(GVIAL),, is a wholly owned subsidiary of GMR Airports Ltd(GAL). and a Special Purpose Vehicle, that has executed the Concession Agreement dated 12.06.2020 with Respondent No.4, Andhra Pradesh Airports Development Corporation Ltd. (“APADCL”), to design, develop, operate and manage the Bhogapuram International Airport.
2. GAL was selected as a successful bidder and Letter of Award was issued to it on 14.04.2020. Subsequently, GAL incorporated GVIAL and the Concession Agreement was executed by GVIAL with APADCL on 12.06.2020. Various timelines and obligations of Respondent No.5 are triggered, including construction timelines for the airport pursuant to the execution of the Concession Agreement.
3. The Appellant, in the present Appeal, has not only challenged the decision of the Expert Appraisal Committee (“EAC”), but also findings in the Environmental Impact Assessment Report (“EIA Report”). The Appellant seeks to micro-manage the EIA Report and substitution of findings of EIA Report and decision of the EAC. This is beyond the scope of even merits-based review as held by the Hon’ble Supreme Court in the following judgments
 - i. *Hanuman Laxman Aroskar v. Union of India (2020) 12 SCC 1, para 54, 55 and*
 - ii. *Rajeev Suri v Delhi Development Authority & Ors 2021 SCC OnLine SC 7 para 489, 491, 492, 494, 495.*
4. The various conditions imposed by EAC and in the Environmental Clearance dated 14.08.2017 (“EC”) has taken into consideration the need for balancing the economic development and environmental protection. The said conditions and the decisions of the EAC and EIA Report also reflect the measures for sustainable development, precautionary principle and ‘polluter pays’ principle.

5. The safeguarding of the environment does not end with the EC, on the contrary, it is a continuous process and answering Respondent is bound to adhere to the various conditions and measures imposed in the EC by EAC.

B. Airport Sector

6. Airport infrastructure directly contributes to a country's international competitiveness and the flow of foreign investment. 97% of the country's foreign tourists arrive by air and tourism is the nation's second largest foreign exchange earner.
7. Airports facilitates timely movement and delivery of very important and critical cargo including the very vital cargo of drugs, medicines and vaccines as also providing timely health care services, across long distances under strictly regulated storage conditions.
8. Airport planning and design takes into consideration various environmental aspects to minimize impact on the environment. Airports are playing their part in further reducing their environmental impacts by:
 - a. using green infrastructure,
 - b. using latest technology which mitigates the noise impact on environment
 - c. using recycled or rain harvested water as a water management technique
 - d. use of renewable energy such as using waste to produce energy as also increasing the rate of waste recycling and diversion from landfill
 - e. integration of smart technology and automation,
 - f. efficient lighting system using solar energy to conserve energy
 - g. adoption of management systems and environment frameworks, and
 - h. use of clean transportation etc.

This is reflected in the binding mitigation measures and compliances imposed in the EC on the Respondents (*EC @ Appeal Paperbook, p. 35 (Special Conditions) and EAC Minutes 14.04.2017 at p. 106*).

9. The Civil Aviation Requirements ('CAR') and Guidelines issued by the Director General of Civil Aviation (aviation regulator), Ministry of Civil Aviation, Govt. of India, are to be complied by the Airport operators and Airline operators in India for environmental safeguards such as: i.e.:

- a. Climate Change Initiatives and Local Air Quality Monitoring in Civil Aviation, 2015
 - b. Noise Management of Aircraft Operations at Airports, 2014
 - c. Carbon Offsetting and Reduction Scheme for International Aviation, 2018
 - d. Guidance on Wildlife Hazard Management, 2017
 - e. National Aviation Safety Plan 2018-2022, 2018
10. Airports and airport operations are being distinct category and recognizing this fact, MoEF has categorized 'airports' under 'Physical Infrastructure including Environmental Services' and not 'Manufacturing / Fabrication' or 'Building/ Construction projects/Area Development projects and Townships' or 'Services Sector' (*Sl. No. 7 of Schedule to EIA Notification, APADCL Reply, p. 148 @ p. 197*).
11. Therefore, the application of environment impact assessment and analysis must be proportionate to the nature of activities undertaken by the airports. This has been recognized in the judgment of *Rajiv Suri (supra)*, where the Hon'ble Supreme Court held:
- "460.** *The aforesaid legal position makes it clear that both basis as well as level of scrutiny of a proposal strictly depends upon the categorization of project. The 2006 Notification draws a clear balance and does not prescribe equal level of scrutiny for all projects." (emphasis added)*
12. Therefore, the EIA Notification cannot be applied as 'one-size-fits-all' but has to be applied proportionate to the activity and nature of activity undertaken by the relevant sector.

C. Description of Project

13. The Bhogapuram International Airport is to be constructed and developed on an area of 2004.52 acres of land ("**Project Site**") and approach roads comprising 119 acres of land.
14. Appellant's attempt to mix it with MRO and Aviation Academy is completely misplaced. MRO and Aviation Academy are not constructions of a different sector but are very much related to and ancillary to airport operations/ services, as they are in some of the existing airports in India, like Hyderabad and Bangalore.

15. The project does not involve different sectors and is therefore not inter-linked (*Rajiv Suri v. Delhi Development Authority & Ors. (2021) SC OnLine SC 7, paras 473 – 478*). Further, if and when, due to increased passenger traffic (million passengers per annum), Respondent No.5 seeks to augment the capacity and develop the MRO and Aviation Academy, Respondent No.5 have to obtain a fresh EC based on the proposed project at that time.

D. Profile of Respondent No.5

16. Respondent -5 is a part of the prestigious GMR Group which entered into the airport development business in the year 2000. Till date, the Group has been associated with multiple prestigious airport projects globally, including the Delhi International Airport, the flagship airport of the Group which is today counted amongst the best and largest airports in the world. (*paras 23 – 26 of Respondent's Reply*).
17. It is the policy statement of the GMR Group to develop and sustain environment friendly practices and initiatives across all its entities. The initiatives undertaken have been widely acknowledged and the airports have been awarded and recognized by many world prominent fora for their initiatives. The awards include recognition from national and international entities. The awards are in recognition of the pro-environment initiatives undertaken by the GMR Group (*Annexure 3 to Respondent No.5's Reply, pp. 116 – 140*).
18. A brief overview of the GMR Group's prominent recognitions in practicing environment friendly initiatives are set out below.
- a. Delhi International Airport (Delhi Airport)*
- i. Delhi Airport has been certified ISO 14001:2015 Environment management system, ISO 14064 Greenhouse Gas Emission Management. Delhi Airport is first airport in the world to be certified for ISO 50001:2011 Energy Management system and currently, the Energy Management System of Delhi Airport is certified under ISO 50001:2018.
 - ii. Delhi Airport has won numerous awards and recognition for its excellent performance towards environmental sustainability and climate change mitigation initiatives. To name a few:

- First Airport in the Asia Pacific region to achieve “Level 3+, Neutrality” (achieved in 2016) and also the first airport in the Asia Pacific to achieve “Level 4+, Transition” (achieved in 2020) accreditation under the globally recognized ACI’s Airport Carbon Accreditation framework on the objective the objective of climate change mitigation and voluntary reduction of anthropogenic greenhouse gas emission from the Airport operations.
- Terminal 3 has achieved LEED India Gold under New Construction Category in 2011 and IGBC Platinum for Existing Building category in 2016.
- ACI Asia-Pacific Green Airports Recognition for 5 years in a row, 2017 (Level: Gold), 2018 (Level: Silver), 2019 (Level: Platinum), 2020 (Level: Gold) and 2021 (Level: Platinum).
- DIAL has been rated as “Climate Oriented” company under Climate Action Program (CAP 2 degree) by Confederation of Indian Industry (CII) for the year 2019 and 2020.
- DIAL has been one of the winners in CII National Award for Excellence in Energy Management in 2014, 2015, 2016, 2018, 2019 and 2020. Based on its consistent energy performance over the years, DIAL also received National Energy Leader Award in 2020.
- DIAL has won the National Water Award- 2019 by Ministry of Jal Shakti (GOI) in January, 2021.
- DIAL has also adopted the GreenCo framework by CII and has achieved Platinum Level of recognition in 2016 for excellence in the field of environmental sustainability.
- Golden Peacock Award for Environment and Sustainability – 2014, 2015 and 2018
- Wings India “Most Sustainable Airport” 2018

b. Hyderabad International Airport (Hyderabad Airport)

- i. GMR Group’s Hyderabad Airport commissioned in the year 2008 was India’s first modern, Greenfield airport developed using the Public-Private-Partnership (PPP) framework which was also recognized with the following accolades in terms of sustainable environmental initiatives:

- Hyderabad Airport has been certified with ISO 14001:2015 Environment Management System, ISO 14064-1: 2006 Greenhouse Gas Emission Management, ISO 50001:2018. Energy Management system.
 - Hyderabad Airport is the 1st airport in its size category in Asia-Pacific region to win the coveted Level 3+ Airport Carbon Accreditation signifying 'Carbon Neutrality' by ACI. In January 2019, the airport successfully retained 'Carbon Neutral' status for the 3rd consecutive year.
 - Hyderabad Airport has received Green Airports Recognition from ACI for the year- 2018 (Level: Gold), 2019 (Level: Silver), 2020 (Level: Platinum), 2021 (Level: Gold).
 - Hyderabad Airport Passenger Terminal Building (PTB) has been certified for "Leadership in Energy & Environmental Design" (LEED) "Silver Rating" by the US Green Building Council (USGBC).
 - Hyderabad Airport has received Golden Peacock award in 2015 for the best environmental management.
 - 'Excellent Energy Efficient Unit' Award by the CII based on its consistent energy performance over the years, GHIAL also received National Energy Leader Award in 2019 and 2020.
 - During the Wings India 2020 Aviation event, MoCA & FICCI recognized GHIAL with Aviation Sustainability & Environment Award in March 2020.
19. It is submitted that the Bhogapuram Airport will harmonize utilization of the environment and its natural resources in a way that is consistent with principles of sustainable development and intergenerational equity complying with all Environmental Clearance conditions and other conditions as may be specified by the government authorities.

E. Aviation and its contributions to Sustainable Development Goals

20. In 2015, the respective States world over, through the United Nations, agreed on the 2030 Agenda for Sustainable Development. This Agenda is framed by 17 overarching Sustainable Development Goals (SDGs), which aims to set priorities and stimulate actions over the next fifteen years in areas of critical

importance for humanity and the world: people, planet, prosperity and peace.

21. Transport is a key component of meeting the SDGs. The global aviation industry is aligned with the aims of the 2030 Agenda for Sustainable Development. Aviation also has one of the most clear and wide-ranging climate action plans of any global industry, which contributes to the environmentally-focused SDGs.

22. SDGs and objectives as per the Flying in Formation – Air Transport and Sustainable Development Goals by Air Transport Action Group. Air Transport Action Group a highly respected not-for-profit that represents all sectors of air transport industry are as follows:
 - a. **No Poverty** – *End poverty in all its forms everywhere*
 - i. improved connectivity can help build economic development to lift standards of living.
 - ii. it is also estimated that 54% of international tourists travel to their destination by air, helping to support employment in the tourism industry
 - b. **Zero Hunger** – *End hunger, achieve food security and improved nutrition and promote sustainable agriculture*
 Aviation provides needed connectivity for perishable products quickly over vast distances.
 - c. **Good Health & Wellbeing** - *Ensure healthy lives and promote well-being for all at all ages*
 Aviation promotes access to vital medical care through the use of air ambulances in remote communities and transporting time-sensitive medical supplies, such as vaccines. This was experienced in the present global pandemic.
 - d. **Quality Education** - *Ensure inclusive and quality education for all and promote lifelong learning*
 - i. Aviation enables the movement of students worldwide, providing access to educational opportunities. Several Indian students stranded in foreign countries during the pandemic benefitted from this.

- ii. The industry itself also champions quality education for its own employees, specifically in areas such as engineering, air traffic management and pilot training.
- e. **Gender Equality** - *Achieve gender equality and empower all women and girls*
The industry works towards encouraging a balance in technical areas such as engineering and flight crew.
- f. **Clean Water & Sanitation** - *Ensure availability and sustainable management of water and sanitation for all*
Aviation must be mindful of water use, particularly in water constrained areas
- g. **Affordable & Clean Energy** - *Ensure access to affordable, reliable, sustainable and modern energy for all*
The aviation industry has made substantial progress towards developing sustainable alternative fuels - these can be up to 80% less carbon intensive.
- h. **Decent Work & Economic Growth** - *Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all*
Aviation supports some key areas of economic development through the connectivity it provides. This includes transporting around a third of world trade by value and 54% of global tourists.
- i. **Industry, Innovation & Infrastructure** - *Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation*
Aviation is one of the most innovative industries in the world. The manufacturing sector is continually developing new technology and creates significant urban infrastructure through the building of airports, as well as air traffic management.
- j. **Reduced Inequalities** - *Reduce inequality within and among countries*
Democratisation of air travel has meant that air services are available to more people than before. Aviation-supported tourism can have a vital role to play and is notable for the opportunities it can offer for economic activity at a local level, including high proportions of women and youth.
- k. **Sustainable Cities & Communities** - *Make cities and human settlements inclusive, safe, resilient and sustainable*

Aviation-related infrastructure is a major part of urban and rural communities worldwide and contributes to the connectivity of populations through integrated transport links.

l. **Responsible Consumption & Production** - *Ensure sustainable consumption and production patterns*

Airlines and manufacturers work closely together to responsibly dispose of aircraft at their end-of-life.

m. **Climate Action** - *Take urgent action to combat climate change and its impacts*

In the long-term, aviation aims to halve its net CO₂ emissions by 2050, using 2005 as the baseline. This will be achieved through the development of new technology, commercialisation of sustainable aviation fuels and more efficient navigational infrastructure.

n. **Life Below Water** - *Conserve and sustainably use the oceans, seas and marine resources for sustainable development*

i. Whilst life under the ocean is not an area of primary influence for air transport, there are some locations where airports are built into the sea, with inevitable impacts on sea life.

ii. Moreover, aviation connects tourists to destinations that rely heavily on

healthy marine ecosystems to drive economic growth.

o. **Life On Land** - *Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss*

Some aviation projects can have an impact on land use – particularly building of infrastructure and potentially the use of sustainable aviation fuels. In addition, a number of aviation partners are involved in projects that help support this SDG.

p. **Peace, Justice & Strong Institutions** - *Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*

Air transport brings people together. This fosters understanding and helps bridge divides and ultimately helps build peace.

q. **Partnerships for the Goals** - *Strengthen the means of implementation and revitalise the global partnership for sustainable development*

Partnerships between all sectors of the aviation industry enable the global air transport industry to operate: airports, airlines, air traffic management, manufacturers and suppliers.

23. Study carried out by Air Transport Action Group ('ATAG') shows that the global air transport industry plays at least some role in supporting 15 out of the 17 SDGs. Out of the 15 SDGs, aviation sector plays a major role in:
- a. Gender Equality (SDG 5),
 - b. Affordable and Clean Energy (SDG 7),
 - c. Decent Work and Economic Growth (SDG 8),
 - d. Industry Innovation and Infrastructures (SDG9),
 - e. Reduced Inequalities (SDG10),
 - f. Responsible Consumption and Production (SDG 11) and
 - g. Climate Change (SDG13).
24. It is therefore submitted, that the Respondent No.4 EIA Report has been prepared in accordance with the EIA Notification and Airport Manual. The review of the EIA Report and decision making by EAC is in accordance with the EIA Notification and principles laid down by the Hon'ble Supreme Court. The EAC by proper application of its mind has taken into consideration all the environmental issues and thereafter issued the EC by incorporating the conditions and special conditions to be complied with by the project proponent/project developer.
25. Respondent No.5 is committed to constructing and operating the Bhogapuram International Airport in compliance to all EC conditions and facilitate & support Govt. people and related stakeholders to achieve possible SDGs as illustrated above.

In the light of the above, it is humbly prayed that this Hon'ble Tribunal maybe pleased to dismiss the present appeal and pass any such further orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

Dated at Chennai on this the 9th day of September, 2021



Counsel for Respondent No. 5

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SOUTHERN ZONE AT CHENNAI

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Sridevi Datla

...Appellant

v.

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...Respondents

Written Submissions filed by
the 5th Respondent

M/s. Anirudh Krishnan
Adarsh Subramanian
Shiva K
Advaidh Nelakantann
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