

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE, CHENNAI  
ORIGINAL APPLICATION NO. 188 OF 2021**

**BETWEEN**

S Sakthivel,  
Environmental Protection & Anti -Pollution Group  
S/o P K Subramaniam,  
Alagu Vinayakar Kovil Street,  
Fairlands, Salem- 636 016  
Email id- [bindusakthi@yahoo.com](mailto:bindusakthi@yahoo.com)  
Ph- 7449213709

**...APPLICANT**

**AND**

- 1. MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE (MOEF & CC),**  
Rep. By its Secretary to Government,  
Union of India,  
Indira Parayavaran Bhavan,  
Jor Bagh Road,  
New Delhi – 110 003  
**& 16 ors**

**...RESPONDENTS**

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Dated at Chennai on this the 23<sup>rd</sup> day of April, 2022.

**COUNSEL FOR THE 14<sup>th</sup> RESPONDENT**

1

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**...APPLICANT**

**Vs**

**MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE (MOEF & CC),**

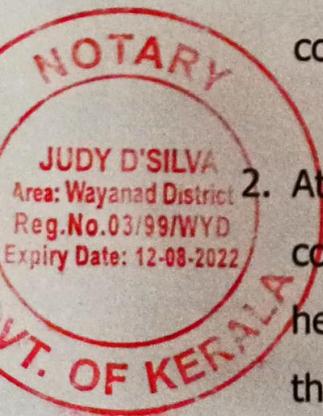
Rep. By its Secretary to Government,  
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Indira Parayavaran Bhavan,  
Jor Bagh Road,  
New Delhi – 110 003  
**& 16 ors**

**...RESPONDENTS**

**COUNTER AFFIDAVIT FILED BY THE 14th RESPONDENT**

I, Zalazi Kallangodan, S/o Moideen, aged 43 residing at Kallanogdan House, Kalpetta, 673121, do hereby solemnly affirm and state as follows:-

1. I state that I am the Senior Law Officer & Authorized signatory of the 14th Respondent, DM Wayanad Institute of Medical Sciences. As such I am acquainted with the facts and circumstances of this case as borne out from the records and I am authorized and competent to swear this counter affidavit on behalf of the 14th Respondent.
2. At the outset it is respectfully submitted that all averment and contentions in the application, save those that are specifically admitted here under, are denied and nothing shall be deemed to be admitted for the want of traverse.



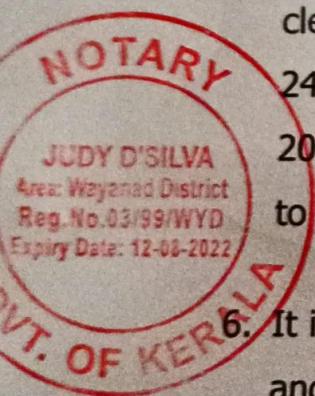
  
**JUDY D'SILVA. B.Sc; LL.B  
ADVOCATE & NOTARY  
WAYANAD DISTRICT  
REGD. No. 3/99/WYD  
MGT BUDG. KALPETTA.**



Zalazi Kallangodan  
  
Senior Law Officer &  
Authorized Signatory

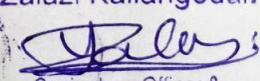
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3. I state that DM Wayanad Institute of Medical Sciences is a medical college situated in Wayanad, Kerala. The medical college along with a hospital, a nursing college and a pharmacy college is the brainchild of DM Education and Research Foundation trust. The 50 acres of green campus is the first Medical College in Kerala established in a Backward, Hilly & Tribal District to change the scenario of healthcare in the area. The institute is affiliated to the Kerala University of Health Sciences, Thrissur and is well-recognized and approved by the National Medical Commission.
4. I state that DM Wayanad Institute of Medical Sciences was established in the year 2013. In this regards, the approval was obtained from the then Medical Council of India (MCI) in the year 2013. Subsequently the present location of the College at Wayanad which is a verdant, lush-green paradise, still and pollution-free was identified and necessary approvals were obtained from the relevant statutory authorities. The 14<sup>th</sup> Respondent also applied for necessary environmental clearance under Environmental Impact Assessment Notification, 2006 vide application dated 14.03.2011 and 11.07.2011 for Construction of the said Medical College at its present location at S.No. 64/2, Muppainad Village, Vythiri Taluk, Wayanad District, Kerala.
5. I state that after the application was scrutinized, prior environmental clearance was granted to the 14<sup>th</sup> Respondent vide proceedings No.21-24/2011-I.A.III under Environmental Impact Assessment Notification, 2006 and the same was also forwarded by the 1st Respondent herein to Respondent No's 2, 4.
6. It is respectfully submitted that the 14th Respondent herein are vigilant and duty bound to follow the rules and regulations as mandated by law and they are unnecessarily dragged into this Litigation despite the fact the prior environmental clearance is obtained on 29.08.2011, even before commencement of construction of Medical College at S.No. 64/2, Muppainad Village, Vythiri Taluk, Wayanad District, Kerala. It is further submitted that there is no new construction or any deviation from the originally approved plans that were submitted in application dated 14.03.2011 and 11.07.2011 for obtaining environmental clearance



JUDY D'SILVA, B.Sc.; LL.M.  
ADVOCATE & NOTARY  
WAYANAD DISTRICT  
REGD. No. 3/99/WYD  
ST BUDG. KALPETTA.



Zalazi Kallangodan  
  
Senior Law Officer &  
Authorised Signatory

7. I state that entire basis of the Application filed by the Applicant before this Hon'ble Tribunal is that the Respondents have not obtained Environmental clearance. However the above facts show that it is blatantly false as against the 14<sup>th</sup> Respondent since the 14<sup>th</sup> Respondent has obtained the prior environmental clearance prior to the construction and therefore there is no violation of any rules as alleged. In view of the same, the 14<sup>th</sup> Respondent has to be dismissed from the array of parties.
8. I state that after obtaining the Environmental Clearance and the completion of construction, the 14<sup>th</sup> Respondent has been running the medical college in a prudent manner. There have been no further construction or expansion thereby violating the Environmental clearance also. Therefore the above application deserves to be dismissed as against the 14<sup>th</sup> Respondent.

In light of the above submissions, it is humbly prayed this Hon'ble Tribunal may be pleased to dismiss the above application and thus render justice



Zalazi Kallangodan

*[Signature]*  
Senior Law Officer &  
Authorised Signatory

Solemnly affirmed at Kalpetta  
on this the 23<sup>rd</sup> day of April, 2022  
and signed his name in my presence. BEFORE ME

*[Signature]*  
NOTARY

JUDY D'SILVA. B.Sc; LL.B  
ADVOCATE & NOTARY  
WAYANAD DISTRICT  
REGD. No. 3/99/WYD  
MGT BUDG. KALPETTA.



4

No. 21-24/2011-IA.III  
Government of India  
Ministry of Environment & Forests  
(IA-III Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi-110 003.

Dated: 29<sup>th</sup> August, 2011

To  
M/s D.M Education and Research Foundation Trust,  
28/927, Chevayur (P.O),  
Calicut- 673017  
(Kerala)

Subject: Environmental Clearance for the Construction of Medical College  
at S.No.64/2, Muppainad Village, Vythiri Taluk, Wayanad District,  
Kerala by M/s D.M Education and Research Foundation - Reg.

Sir,

This has reference to your application No. Nil dated 14.3.2011 and 11.7.2011 seeking prior Environmental Clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per prescribed procedure in the lights of provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., the Form-1 & 1A, Conceptual Plan and the additional clarifications furnished in response to the observations of the Expert Appraisal Committee constituted by the competent authority in its meetings held on 23-24<sup>th</sup> June, 2011 and 13-15<sup>th</sup> July, 2011 and recommended environmental clearance to the project.

2. It is, inter alia, noted that the project involves the construction of Medical College on a plot area of 20.243 ha. The total built up area is 1,24,772.15 Sq.m. Total number of beds are 1100 with total number of residential units are 288 and hostel facility for 860 students and accommodation for 110 attendants. The total water requirement is 609.67 KLD (fresh water requirement 474.80 KLD). The capacity of STP proposed is 652 KLD. The treated waste water to be used for flushing 128.87 KLD, horticulture 345.10 KLD and boiler requirement-15 KLD. Total solid waste generation is 2175 kg/day. The power requirement is- 3 MVA. The total parking spaces provided 135 cars (including 50 taxis + 200 two wheelers+ 10 ambulances. Total cost of the project is Rs. 150 Crores.

3. The Expert Appraisal Committee, after due consideration of the relevant documents submitted by the project proponent and additional clarifications furnished in response to its observations, have recommended for the grant of Environmental Clearance for the project mentioned above. Accordingly, the Ministry hereby accord necessary Environmental Clearance for the above project as per the provisions of Environmental Impact Assessment Notification - 2006 and its subsequent amendments, subject to strict compliance of conditions and conditions as follows:

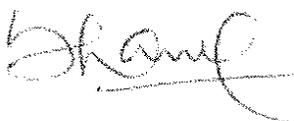
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***** *** Communication Management Report *** *****					

**PART A - SPECIFIC CONDITIONS****I. Construction Phase**

- (i) "Consent for Establishment" shall be obtained from Kerala State Pollution Control Board under Air and Water Act and a copy shall be submitted to the Ministry before start of any construction work at the site.
- (ii) The total height of the building shall not be more than 60 m, due to non-availability of adequate fire fighting facilities in the area.
- (iii) Proposals for storm water drainage shall be worked out after analyzing the contour levels of the site and the surrounding area and the carrying capacity of storm water drains and their outfall.
- (iv) Bio-Medical waste shall be handled and disposed according to Bio-Medical Waste Management Rules. MoU with the authorised agency for disposal of Bio-Medical waste shall be submitted prior to the commencement of operation.
- (v) Project proponent shall provide suitable water meters for usage of recycled water and shall maintain the record
- (vi) Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- (vii) A First Aid Room will be provided in the project both during construction and operation of the project.
- (viii) All the topsoil excavated during construction activities should be stored for use in horticulture/landscape development within the project site.
- (ix) Disposal of muck during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
- (x) Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.
- (xi) Construction spoils, including bituminous material and other hazardous materials, must not be allowed to contaminate watercourses and the dump sites for such material must be secured so that they should not leach into the ground water.



- (xii) Any hazardous waste generated during construction phase, should be disposed off as per applicable rules and norms with necessary approvals of the Kerala State Pollution Control Board.
- (xiii) The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environment (Protection) Rules prescribed for air and noise emission standards.
- (xiv) The diesel required for operating DG sets shall be stored in underground tanks and if required, clearance from Chief Controller of Explosives shall be taken.
- (xv) Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standards and should be operated only during non-peak hours.
- (xvi) Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/ KSPCB.
- (xvii) Fly ash should be used as building material in the construction as per the provisions of Fly Ash Notification of September, 1999 and amended as on 27<sup>th</sup> August, 2003. (The above condition is applicable only if the project site is located within the 100 Km of Thermal Power Stations).
- (xviii) Ready mixed concrete must be used in building construction.
- (xix) Storm water control and its re-use as per CGWB and BIS standards for various applications.
- (xx) Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.
- (xxi) Permission to draw ground water shall be obtained from the competent Authority prior to construction/operation of the project.
- (xxii) Separation of grey and black water should be done by the use of dual plumbing line for separation of grey and black water.
- (xxiii) Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
- (xxiv) Use of glass may be reduced by upto 40% to reduce the electricity consumption and load on airconditioning. If necessary, use high quality double glass with special reflective coating in windows



- (xxv) Roof should meet prescriptive requirement as per Energy Conservation Building Code by using appropriate thermal insulation material to fulfill requirement.
- (xxvi) Opaque wall should meet prescriptive requirement as per Energy Conservation Building Code which is proposed to be mandatory for all airconditioned spaces while it is aspirational for non-airconditioned spaces by use of appropriate thermal insulation material to fulfill requirement.
- (xxvii) The approval of the competent authority shall be obtained for structural safety of the buildings due to earthquake, adequacy of fire fighting equipments, etc. as per National Building Code including protection measures from lightening etc.
- (xxviii) Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings.
- (xxix) Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
- (xxx) Connectivity to the National Highway shall be redesigned and submitted to NHAI/PWD and necessary approval shall be obtained prior construction at site

## II. Operation Phase

- i) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the Ministry before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/reused to the maximum extent possible. Treatment of 100% grey water by decentralised treatment should be done. Discharge of unused treated effluent shall conform to the norms and standards of the Kerala State Pollution Control Board. Necessary measures should be made to mitigate the odour problem from STP.
- ii) The solid waste generated should be properly collected and segregated. Wet garbage should be composted and dry / inert solid waste should be disposed off to the approved sites for land filling after recovering recyclable material.
- iii) Diesel power generating sets proposed as source of back up power for elevators and common area illumination during operation phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to

*[Handwritten signature]*

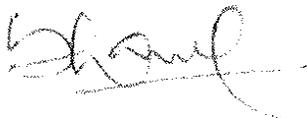
## **PART - B. GENERAL CONDITIONS**

- i) The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
4. Officials from the Regional Office of MOEF, Bangalore who would be monitoring the implementation of environmental safeguards should be given full cooperation, facilities and documents/data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF should be forwarded to the CCF, Regional office of MOEF, Bangalore.
5. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry.
6. The Ministry reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environmental (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
7. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities.
8. These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and control of Pollution) act 1981, the Environment (Protection) Act, 1986, the MLL Liability (Insurance) Act, 1991 and EIA Notification, 2006.
9. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the Kerala Pollution Control Board and may also be seen on the website of the Ministry of Environment and Forests at <http://www.envfor.nic.in>. The advertisement should be made within 10 days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the Regional office of this Ministry at Bangalore.
10. Environmental clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation v/s Union of India in Writ Petition (Civil) No.460 of 2004 as may be applicable to this project.
11. A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla Parishad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/representations, if any, were received while



the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel. The location of the DG sets may be decided with in consultation with Kerala State Pollution Control Board.

- iv) Noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.
- v) The green belt of the adequate width and density preferably with local species along the periphery of the plot shall be raised so as to provide protection against particulates and noise.
- vi) Weep holes in the compound walls shall be provided to ensure natural drainage of rain water in the catchment area during the monsoon period.
- vii) Rain water harvesting for roof run- off and surface run- off, as plan submitted should be implemented. Before recharging the surface run off, pre-treatment must be done to remove suspended matter, oil and grease. The borewell for rainwater recharging should be kept at least 5 mts. above the highest ground water table.
- viii) The ground water level and its quality should be monitored regularly in consultation with Central Ground Water Authority.
- ix) Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
- x) A Report on the energy conservation measures conforming to energy conservation norms finalise by Bureau of Energy Efficiency should be prepared incorporating details about building materials & technology, R & U Factors etc and submit to the Ministry in three months time.
- xi) Energy conservation measures like installation of CFLs/TFLs for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning. Use CFLs and TFLs should be properly collected and disposed off/sent for recycling as per the prevailing guidelines/ rules of the regulatory authority to avoid mercury contamination. Use of solar panels may be done to the extent possible.
- xii) Adequate measures should be taken to prevent odour problem from solid waste processing plant and STP.
- xiii) The building should have adequate distance between them to allow movement of fresh air and passage of natural light, air and ventilation.



processing the proposal. The clearance letter shall also be put on the website of the company by the proponent.

12. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.

13. The environmental statement for each financial year ending 31<sup>st</sup> March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.

Yours faithfully,

  
(Bharat Bhushan)  
Director (IA)

25.08.2011

Copy to:

- (1) The Secretary, Department of Environment, Government of Kerala, Thiruvananthapuram.
- (2) The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110 032.
- (3) The Member Secretary, Kerala State Pollution Control Board, Flamoodu Junction, Pattom Palace, P.O. Thiruvananthapuram - 695 004.
- (4) The CCF, Regional Office, Ministry of Environment & Forests (S2) Kerala, Sadan IVth floor, E&F wings, 17<sup>th</sup> Main Road, Koramangala II Block Bangalore - 560 034.
- (5) IA - Division, Monitoring Cell, MOEF, New Delhi - 110003.
- (6) Guard file.

/

(Bharat Bhushan)  
Director (IA)

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**INDEX**

K.Gowtham Kumar (MS 1405/2007)  
Athiban Vijay A.K (MS 1953/2016)  
N.S Amogh Simha (MS 2493/2018)  
Gayathri R (MS 3151/2017)

**COUNSEL FOR RESPONDENT No.14  
Mobile No. 95661 39138**