

**BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI**  
**Original Application No. 92 of 2021 (SZ)**

**(Through Video Conference)**

**IN THE MATTER OF:**

Tribunal on its own motion  
Suo Motu based on the news item in  
The New Indian Express newspaper, Chennai Edition  
Dt. 10.03.2021, "TN proposes 3 Km canal in eco-sensitive zone"  
... Applicant(s)

**Versus**

1. Union of India, Ministry of Environment, Forest and  
Climate change, Rep. by its Secretary,  
Indira Paryavaran Bhavan,  
Jorbagh Road,  
New Delhi — 110 003.
2. The Secretary to Govt. of Tamil Nadu,  
Department of Environment  
& Forests, Govt. Secretariat, Fort St.  
George Chennai,  
Tamil Nadu — 600 009.
3. National Board for Wild life,  
Rep. by its Member Secretary,  
6<sup>th</sup> Floor, Vayu Wing,  
Indira Paryavaran Bhavan,  
Jorbagh Road, Aliganj, New  
Delhi — 110 003.
4. State Board for Wildlife Tamil  
Nadu, Rep. by its Member  
Secretary, Panagal Maligai,  
No. 1, Jeenis Road, Saidapet,  
Chennai — 600015.
5. The Principal Secretary to Government,  
Public Works Department,  
Govt. Secretariat, Fort St. George,  
Chennai — 600 009.

6. Principal Chief Conservator of Forests (Head of Forest Force), Department of Forests, Govt. of Tamil Nadu, PanagalMaligai, No. 1, JeenisRoad, Saidapet, Chennai — 600015.
7. The District Collector, Tirunelveli District, DistrictCollectorateOffice, KokkirakulamTirunelveli — 627009.
8. Additional Principal Chief Conservator of Forests & Filed Director, KalakadMundanthurai TigerReserve, N GO "A" Colony Tirunelveli — 627 007.
9. The ExecutiveEngineer, PWD, WR0, Tirunelveli Division, Tirunelveli — 627 006.

...Respondent(s)

## **Report filed by the 9<sup>th</sup> respondent**

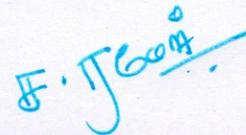
I, S.Ramesh, S/o.R.Sankarasubramanian, Executive Engineer, W.R.D having office at Special Project Division, W.R.D, Tirunelveli, states as follows :

### **Background:**

An article has been published in the Indian Express paper, Chennai edition dated 10.03.2021 with the heading "TN proposes 3 Km canal in Eco Sensitive Zone". The above matter has been taken Suo-motu (O.A. No. 92/2021) based on the above news paper report and Executive Engineer, PWD/WRD, Special Project Division, Thirunelveli state of Tamil Nadu directed by the Hon'ble National Green Tribunal (South Zone), Chennai, to submit independent response regarding the allegations made in the report.

Accordingly, following report is submitted to Hon'ble National Green Tribunal (South Zone), Chennai.

The implementation of the scheme Proposal was announced by the Hon'ble Chief Minister of Tamilnadu on the floor of Assembly during the budget session on 25.09.2015 under Tamil Nadu Legislative Assembly Rule 110. Initially, an amount of Rs.500 lakhs towards land acquisition cost and Rs.40 lakhs towards surveying & levelling operation was allotted for this scheme under state fund vide G.O,M.S.no 292 Public Works (I.Spl.2 ) Department, dated: 22.12.2015 (Copy enclosed Annexure-1). The Government have accorded administrative sanction for the work of "Diversion of Surplus Water from the Ramanadhi Reservoir to Jambunadhi System of tanks and Excavation of New Canal from the Padmanabaperi tank to Pungankulam and Lower down tanks in Tenkasi and Alangulam Taluks of Tenkasi District " for an amount of Rs.4108.15 Lakhs.Vide G.O Ms No. 64 Public Works (P2) Department dt. 26.02.2020 (Copy enclosed Annexure -2).



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Special Project Division  
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**Scope of the Scheme:** A new head sluice is proposed at the water spread area of Ramanadhi reservoir and a link canal is proposed to connect Jambunadhi system of tanks for a length of 3215m and a branch canal is proposed for a length of 125m to supply water to six tanks under first anicut namely Kuthalaperianicut, four tanks under second anicut namely Narayanaperianicut, one tank under third anicut namely Irappanodaianicut and three tanks under fourth anicut namely Ayyampillai anicut ie., the tanks under Jambunadhi system.

The balance water is proposed to supply seven rain fed tanks below last tank of Narayanaperianicut namely Padamanabaperi tank through Pungankulam supply channel for a length 2800m, Aladikulam supply channel for a length of 1180m and Sennalthakulam supply channel for a length of 880m.

**Benefit of the scheme:** "The scheme will fulfil the decades-long irrigation needs of people of Mathalamparai, Thippanampatti, Avudaiyanoor, Keelakadayam and Pottalputhur areas. Also, the living condition of the people of the area will improve due to stabilized irrigation facilities. With the rejuvenation of groundwater, it will enhance drinking water facilities to people, cattle and other livelihoods. The farmers can use the canal road for transportation of agricultural products, men and materials. Electric power consumption may also come down with the rise in groundwater level. Migration of agricultural workers due to crop failures will get minimised. The net additional food production expected with the implementation of the scheme works out to 7,887 tonnes.

Originally in the EIA notification vide S. No. 1533(E) dt. 14.09.2006 schedule 1(c) B(ii), the threshold limit of the category 'B' for the river valley projects is mentioned as <10,000Ha of cca.(Copy enclosed Annexure -3 ).

*F. J. G. S.*

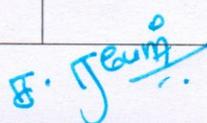
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Project or Activity		Category with threshold limit		Conditions if any
		A	B	
(c)	River Valley projects	(i) $\geq 50$ MW hydroelectric power generation; (ii) $\geq 10,000$ ha. of cultivable command area	(i) $< 50$ MW $\geq 25$ MW hydroelectric power generation; (ii) $< 10,000$ ha. of cultivable command area	"General Condition shall apply."

Subsequently amendment has been issued to the said EIA notification, vide S. No. 3977(E) dt. 14.08.2018 schedule 1(c) B(ii), the threshold limit of the category 'B' has been revised as  $>2000$ Ha and  $<50,000$ ha of cca. The CCA for this project is 1639.08Ha which is less than 2000 Ha. Hence as per the amendment issued this project is classified as Minor Irrigation System which is "exempted" for Environmental clearance.

MoEF Gazette Notification 14.08.2018(Copy enclosed Annexure -4)

Project or Activity		Category with threshold limit		Conditions if any	
		A	B		
1 (c)	River Valley projects	(i) $\geq 50$ MW hydroelectric power generation; (ii) $\geq 10,000$ ha. of cultivable command area	(i) $\geq 25$ MW and $< 50$ MW hydroelectric power generation; (ii) $> 2000$ ha and $<50,000$ ha. of culturable command Area		<b>"General Condition shall apply."</b> Note:- (i) Category, "B" rivervalley projects falling in more than one state shall be appraised at the central Government Level. (ii) Change in irrigation technology having environmental benefits (eg. From flood irrigation to Drip irrigation etc.) by an existing project, leading to increase in Cultivable Command Area but without increase in dam height and submergence, will not require amendment/ revision of EC.
			<b>Irrigation system</b>	<b>Requirement of EC</b>	
			(a) Minor Irrigation system ( $\leq 2000$ Ha)	<b>Exempted</b>	
			(b) Medium irrigation system ( $> 2000$ and $<10,000$ ha.)	Required to prepare EMP and to be dealt at State Level (B2 category).	
			(c) Major irrigation system ( $\geq 10,000$ to $< 50,000$ ha.)	Required to prepare EIA/EMP and to be dealt at State Level (B1 category).	

  
 Executive Engineer, P.W.D./W.R.D.,  
 Special Project Division  
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While the earth work excavation started in reach 1A during September 2020, the Deputy Director / Wildlife Warden, Project Tiger, Ambasamudram has requested to get necessary wild life clearance vide Lr.No.C.No. 3068/ 2020 dt.31/10/2020 (Copy enclosed Annexure -5) addressed to the Additional Principal Chief Conservator of forest, Tirunelveli & copy marked to SEIAA Chennai. The work was stopped immediately after the receipt of the letter from the Deputy Director/Wildlife Warden, Project Tiger, Ambasamudram.

Regarding the environmental clearance, the Ministry of Environment, Forest and Climate change vide its notification dated. 14.08.2018 has clearly stated that for minor irrigation system  $\leq 2000$  Ha of CCA, Environmental clearance is exempted and the same has been clarified from SEIAA, Chennai vide Lr.No.SEIAA-TN/C.No.016736/2020, Dt.30.11.2020 (Copy enclosed Annexure - 6). The District Collector, Tenkasi also accepted the clarification given by the SEIAA, Chennai and requested the Deputy Director / Wildlife Warden, Project Tiger, Ambasamudram to extend all necessary Co-operation from his end as to complete the project in time and the end user is benefited at the earliest (Copy enclosed Annexure -7).

The Deputy Director/Wildlife Warden, Project Tiger, Ambasamudram vide Letter no. C.No.D/3068/2020 dated 04.01.2021 addressed to the District Collector, Tenkasi that this project requires prior approval of Standing Committee of NBWL under provisions of Wildlife (Protection) Act, 1972 and also environment clearance under EIA notification 2006 and as amended in 2018, notified under Environment (Protection) Act,1986 (Copy enclosed Annexure -8).

  
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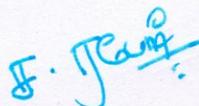
The SEIAA again Clarified that the General Condition are applicable only for the projects which are required Environmental Clearance as per EIA Notification 2006 as amended vide letter no. SEIAA-TN/C.No.016736/2020-1, Dt.27.01.2021 (Copy enclosed Annexure -9). From the above it is evident that the environmental clearance is not required for this minor irrigation project.

The Deputy Director, Project Tiger, Ambasamudram again insisted to take wild life and environmental clearance vide letter no. C.No.D/3068/2020 dated 15.02.2021. (Copy enclosed Annexure -10). Based on his request, a joint meeting has been convened at the O/o. the Additional Principal Chief Conservator of Forests and Field director, KalakadMundanthurai Tiger Reserve, Tirunelveli along with Superintending Engineer, WRD, Projects Circle, Tirunelveli on 19.02.2021. In the meeting, it was decided to apply for NBWL clearance through online. Accordingly, application for getting NBWL clearance has been submitted online by the Executive Engineer, Special Project Division, Tirunelveli on 23.02.2021 vide No. FP/TN/Canal/5768/2021.(Copy enclosed Annexure -11).

The proposal has been verified and accepted by the Deputy Director, KalakadMundanthurai Tiger Reserve, Ambasamudram and the same has been submitted through online to Chief Wild life warden, Chennai for further necessary action. Now the proposal is under scrutiny in the O/o Chief Wild life warden, Chennai .

The following additional details are submitted with respect to this project.

1. The para 5 of MoEF& CC F.No. 6-60/2020/WIPart(1) dt. 16.07.2020, states that "**State Governments are requested not to insist upon Wildlife Clearance for such developmental projects**" outside project area that are not covered under para 3 of the circular.(Copy enclosed Annexure - 12)

  
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2. Regarding the alignment of canal it not lies across the RF boundary. A portion of canal only runs parallel to the KalakadMundanthurai Tiger Reserve (KMTR) boundary at a distance ranging from 30 m to 1000 m away from the RF boundary line.
3. The project area lies mostly in poromboke and patta lands in Kadayamperumpattu village of Tenkasi Taluk. Regarding the felling of trees in the poromboke and patta lands, necessary permission sought vide Lr No. 76<sup>M</sup>/DO/C.31/2020 dt.22.10.2020(Copy enclosed Annexure -13).
4. A joint inspection regarding the census of trees along with Revenue department and Forest department has been done on 15.10.2020. The valuation of trees has been received from the Deputy Director /Wildlife Warden, Project Tiger, Ambasamudram vide Proc Lr No.M/11/2021 dt 15.03.2021(Copy enclosed Annexure -14). The trees in this area have not been cut so far. The work is not resumed till date for want of NBWL clearance from the Forest Department.
5. Public Works Department (PWD) is not in any intention to cross the eco-sensitive zone of the KalakadMundanthurai Tiger Reserve (KMTR). The entire length of canal runs through the Buffer zone of KalakadMundanthurai Tiger Reserve (KMTR) as mentioned in G.O. no.201 Environment and Forests (FR.5) Department dt.13.08.2012. (Copy enclosed Annexure -17).

*F. J. J. J.*

Executive Engineer, P.W.D./W.R.D.,  
Special Project Division  
Tirunelveli - 627 011

**Prayer :**

1. An amendment has been issued to the said EIA notification, vide S. No. 3977(E) Dt. 14.08.2018 schedule 1(c) B(ii), the threshold limit of the category "B" has been revised as >2000Ha and <50,000ha of cca. The CCA for this project is 1639.08Ha which is less than 2000 Ha. In such circumstances, based on the statutory provisions of the EIA Notification 2006 and its amendments, the project under the category of minor irrigation system, which is expressly exempted from the requirement of environmental clearance (EC). Accordingly, the said project does not require prior environmental clearance. This has been clarified by the SEIAA vide Lr No. TN/C.No.016736/2020-1, Dt.27.01.2021. Also the NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI in its order O.S No. 232/2020 (SZ) in P.26 of SI No. 47 clearly states that project namely, Mettur – Sarabanga Lift Irrigation Project without obtaining prior Environmental Clearance (EC), as this Tribunal has found that since the irrigation command area is less than 2,000 Hectares as per amended Notification of 2018, no prior Environmental Clearance (EC) is required.

2. The para 5 of MoEF& CC F.No. 6-60/2020/WI Part(1) dt. 16.07.2020, states that "**State Governments are requested not to insist upon Wildlife Clearance for such developmental projects**" outside protected area that are not covered under para 3 of the circular.

iii) Proposals involving activity/project, falling outside the protected areas linking one protected area or tiger reserve with another protected area or tiger reserve, prior clearance from the Standing Committee of the National Board for Wild life as per Section 38 O (I) (g) of the wild life (Protection) Act, 1972 will be required.

*F. Jeyaraj*

Executive Engineer, P.W.D./W.R.D.,  
Special Project Division  
Tirunelveli-627011

Since our project is mere excavation of canal falling outside the protected area which runs through patta and government poramboke lands in the Buffer zone of Kalakad Mundanthurai Tiger Reserve (KMTR), it submitted that there is no requirement to obtain NBWL clearance.

3. Deputy Director, Project Tiger, Ambasamudram insisted to obtain wild life clearance. To expedite and to execute the project on time, an application for NBWL clearance has been submitted online by the Executive Engineer, Special Project Division, Tirunelveli on 23.02.2021 vide No. FP/TN/Canal/5768/2021. Application is still pending with the Principal Chief Conservator of Forest and Chief Wild life Warden, Chennai and no decision is arrived until now. The project activity is held up since November 2020.(Copy enclosed Annexure -18 ).

The EIA notification amendment permits exemption for environmental clearance for the minor irrigation projects having <2000 Ha. CCA. This project is having an ayacut of 1639.08 Ha.. Hence by considering all the above facts, Hon'ble Tribunal may pass appropriate Order(s) direction(s) as deemed fit.

*F. J. G. 018*

Executive Engineer, P.W.D./W.R.D.,  
Special Project Division  
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