

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

**ORIGINAL APPLICATION No. 33/2016 (SZ)**

Vakkanti Koteswar Rao

..... Applicant

Vs

Ministry of Environment, Forests & Climate Change & others..... Respondents

**REPLY AFFIDAVIT ON BEHALF OF MINISTRY OF ENVIRONMENT,  
FORESTS AND CLIMATE CHANGE, GOVERNMENT OF INDIA i.e.  
RESPONDENT NO. 1**

I, ELAMURUGANNAN SHANMUGAM, S/O SHANMUGAM APPAVU (Late), Aged 45 years, currently working as Assistant Inspector General of Forests, Integrated Regional Office, Hyderabad, Ministry of Environment, Forests and Climate Change, Government of India, do hereby solemnly affirm and state as under.

1. That I am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. It is respectfully submitted that, the Hon'ble NGT, Chennai in its interim order dated 19.08.2020 directed the Regional Office, MoEF&CC to consider the report submitted by the joint committee constituted by the Hon'ble NGT and if any action is required on that basis and to take appropriate action in accordance with law and submit the report to that effect;
3. It is respectfully submitted that, as directed by the Hon'ble NGT, the Integrated Regional Office (IRO) Hyderabad has requested the Telangana State Government to submit factual report regarding alleged violations i.e encroachments into the Reserved Forest land;



4. It is respectfully submit that, after continuous follow up by the Integrated Regional Office, Hyderabad, the Telangana State Government vide letter No 1312/For.I(1)/2014 dated 22.04.2021 submitted the enquiry report to the IRO, Hyderabad based on the orders issued by Hon'ble NGT, Chennai dated 19.08.2020 and 22.02.2021;
5. That in pursuant to Hon'ble NGT order dated 19.08.2020 and Joint Committee Report, constituted by the Hon'ble NGT, the Ministry vide letter dated 05.08.2021 issued Show Cause Notice to the project proponent (i.e. M/s Deccan Cements Limited for its non-compliance and violation of specific condition of Environment Clearance dated 18.10.2017 and 05.01.2017 granted by the Ministry. It is further submitted that reply to the said Show Cause Notice is awaited. Copy of the Show Cause Notice dated 05.08.2021 is attached as Annexure A1.
6. It is respectfully submitted that, subsequently the Telangana State Government vide letter No 1632/For.I(I)/2020 dated 22.04.2021 forwarded a proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favor of M/s Deccan Cements Limited (DCL), Hyderabad to the Integrated Regional Office, Hyderabad and requested to accord approval under Forest (Conservation) Act, 1980;
7. It is respectfully submitted that, as the proposal is linear in nature and having area more than 5 hectares with violation of FCA, 1980, the Integrated Regional Office, Hyderabad placed the proposal before the Regional Empowered Committee (REC) for consideration and to take appropriate decision as per the provisions of Forest (Conservation) Act 1980 and rules/guidelines framed there under;
8. The Regional Empowered Committee (REC) in its 47<sup>th</sup> meeting held on 07.05.2021, noted the interim orders issued by the Hon'ble NGT in OA 33/2016 and in specific discussed in detail the order dated 19.08.2020 and examined the proposal submitted by the Telangana State Government seeking approval for regularization of 8.02 ha of forest area. The committee of REC, deliberated in details on all aspects and after hearing both the Forest Department Officials & the representative of the User Agency, the committee opined that though the M/s Deccan Cement Limited obtained the prior approval of Regional office, Bangalore, Government of India during 2011 for diversion of 1.9337 ha for railway siding, the User Agency would have been consulted the Forest Department before taking up of any activity near to the RF boundary to avoid violation of FCA, 1980 over an extent of 8.02 ha.

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The Committee opined that the encroachment of 8.02 ha of forest area is completely in violation of condition No. 06 stipulated by the erstwhile Regional Office in its order No 4-APB633/2009-BAN/9849 dated 22.09.2011 and the committee concluded that the User Agency utilized / encroached additional 8.02 ha shall be penalized as per the provisions made in the comprehensive hand book under 1.21 (iii) and also decided to impose Penal Compensatory Afforestation (PCA) as proposed by the State Government.

9. After deliberation on all aspects and considering the directions issued by Hon'ble NGT based on the report of the Joint Committee Constituted by the Hon'ble NGT and also need of the railway siding as per the conditions stipulated in the Environmental Clearance, the committee opined that the established railway siding by the M/s Deccan Cements Limited is essential for the conservation of environment and forests and hence decided to **RECOMMEND** the proposal to regularize / diversion under FCA, 1980 subject to the standard conditions as applicable to such railway projects with the following additional conditions;

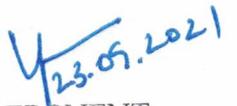
- a. Committee decided to impose a penalty of 2 times the NPV as per provisions made in the comprehensive guidelines hand book under section 1.21 (iii) (a) ;
- b. The violation committed by the User Agency / Forest Department officials shall be dealt as per the provisions made in State Forest Act or FC Act and its Rules and guidelines made there under.
- c. Penal Compensatory Afforestation (PCA) over 17 ha of degraded forest area Compt.No.9, Ramavaram RF, Pengadapa beat, Musalivarre (W), Ramavaram Range shall be carried out with financial outlay of Rs.120.3289 lakhs as per proposed PCA Scheme;
- d. The user agency shall get the wildlife mitigation plan prepared by any competent person /agency and the same should be approved by the Chief Wildlife Warden and implemented at the cost of the User Agency;
- e. The user agency has to deposit funds for erection of the Boundary Pillars throughout the entire length of Saidulanama RF so as to ease the further discrepancies if any.
- f. User Agency has to erect a 4 ft height parapet wall on towards the Forest Boundary all along the length of the proposed diversion.
- g. Trees standing within 8.02 ha shall not be felled.



- h. In consultation with the DFO, Concerned, User Agency shall carryout plantation of long living and environmental tree species like Peepal (*Ficus religiosa*) Banyan (*Ficus benghalensis*), Tamarind (*Tamarindus indica*), Neem (*Azadirachta indica*), and Jamun (*Syzygium cumini*) etc in vacant area within the 8.02 ha,
- i. The User Agency shall take prior approval of Government of India for any new non forestry activity within 8.02 ha;

Minutes of the 47<sup>th</sup> meeting of Regional Empowered Committee (REC) held on 07.05.2021 is placed at Annexure A2. The Stage-I approval accordingly was issued by the IRO concerned.

9. It is respectfully submitted that, in view of the subject court case before Hon'ble NGT, SZ, Chennai, the subject proposal was forwarded to Ministry, New Delhi for concurrence. Since, the instant matter was also related to regularization of encroached land, ex-post facto, approval was accorded by the competent authority in the matter and subsequently, the Integrated Regional Office, Hyderabad vide letter No 4-TSC-182/2021-HYD/116 dated 30.07.2021 conveyed the revised **Stage I** (In-principle) approval under FCA, 1930 for diversion of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favor of M/s Deccan Cements Limited (DCL), Hyderabad for a period of 30 years subject to certain conditions (**enclosed as Annexure A3**);
10. That, in view of the aforementioned facts and circumstances, Hon'ble Tribunal may kindly be pleased to pass an order as deemed fit.

  
23.09.2021  
DEPONENT

#### VERIFICATION

I, the above deponent do hereby verify that the contents of the above affidavit are true and correct on the basis of official record maintained by the respondent No 1 in daily course of business, no part of it is false and noting material has been concealed therefrom.

Verified at Bengaluru on 23<sup>rd</sup> day of September, 2021

  
23.09.2021  
DEPONENT