

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
APPLICATION NO 88 OF 2020**

IN THE MATER OF:

MEENAVATHANTHAI K.R.SELVARAJ KUMAR MEENAVAR NALA
SANGAM, Represented by its President, M.R.Thiyagarajan
....Applicant

-VERSUS-

UNION OF INDIA & 3 OTHERS

....Respondents

Rejoinder Affidavit of the 4th Respondent

I, Joy, aged about 52 years, Factory Manager of M/s Sun Pharmaceutical Industries Ltd, having its factory at survey no. 90/2, 90/3, 90/4, 99/1, 99/2, 99/3, 99/4, 99/5, 100/2A, 100/2B, 100/3, Sathammai Village, Karunkuzhi Po, Madhuranthagam TK, Chengalpattu Dist., do hereby solemnly affirm and sincerely state as follows:

1. I am the Factory Manager of the 4th Respondent company and as such I am well acquainted with the facts and circumstances of the case, and I am authorised to swear to this affidavit.
2. It is humbly submitted that the reply filed by us may be treated as part and parcel of this rejoinder and this respondent craves leave to refer the same.
3. I have read the replies and objections of the complainant and replies of Respondents 1 and 3 and would like to bring the following facts before this Hon'ble Tribunal.
4. (i) It is humbly submitted that this respondent's factory was established in the year 1992 and Vedanthangal Bird Sanctuary was declared by the State Government of Tamil Nadu by GO number 199 dated 3rd July 1998 (Annexure -1) whereby 73.06 acres (or 29.5 hectares) area in survey number 220 was marked as a lake and declared that the area specified in the schedule

For SUN PHARMACEUTICAL INDUSTRIES LTD


M.A. JOY
 General Manager - Operations

below shall be called Vedanthangal Lake Bird Sanctuary and additionally 5 kilometre of the surrounding area (Includes private land holdings, villages, township with intense human activity) of the lake was also mentioned to be considered as part of the Sanctuary.

(ii) In the G.O in 1998, it is mentioned that the Bird Sanctuary is situated in Vedanthagal village but the answering respondent's Unit is situated in Sathammai Village.

(iii) It is humbly submitted that, in the Topographical map no. D44T14 of Survey of India (Annexure -2), it shows that Vedanthangal Bird Sanctuary is only lake.

5. (i) It is humbly submitted that according to the Wildlife Protection Act 1972 Section 18(II) requires that the Sanctuary area needs to be specified as nearly as possible by way of mentioning the nearby roads, rivers, bridges and other well-known boundaries. Section 27 of the said Act further requires putting restrictions on the Sanctuary area and only authorised persons are allowed to enter in the Sanctuary area. The provisions with regard to allowing entry to the Sanctuary are provided in Section 28 of this Act. The procedure as is being followed by the wildlife authorities of Vedanthangal Bird Sanctuary is that they are issuing the entry passes at the gate adjacent to the Vedanthangal Lake, in compliance to the provisions made in Section 28.

(ii) It is also submitted that the official website of the department of forest, Government of Tamil Nadu mentioned that the Vedanthangal Bird Sanctuary area is 30 hectares, (Annexure -3). If the said statement of department of forest, Government of Tamil Nadu is taken into account, then the sanctuary is only the lake and the remaining 5 kilometre is kept as a buffer zone, without demarcation of boundaries to the best of the knowledge of this respondent. It is also submitted that the notification in question is not clear, from where these 5 kilometres was taken into account, with respect to the starting point and endpoint.

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6. It is further submitted that Indian national highways /state highways/village roads and Maduranthagam town were developed and constructed within the 5 kilometre of bird Sanctuary Lake which is considered as part of the Sanctuary as per notification of 1998.
7. It is further submitted that lot of commercial activities and cultivation of the land are being undertaken in this 5 kilometres area being considered as part of the Bird Sanctuary. The settlements of the lands has also not been done, to the best knowledge of the answering respondent here.
8. It is simply submitted in the reply of the Respondent – 1, it is stated in para number 26 that our factory is located at 3.72 kilometres from the Vedanthangal Lake Bird Sanctuary.
9. We humbly submit that the factual position as narrated above, the answering respondent's Unit is not in Bird Sanctuary.
10. The pertinent question here in is whether we are outside protected area or within the protected area is the question to be decided by this Hon'ble tribunal.
11. It is humbly submitted that we have followed the new procedure as required in the OM and EIA notifications for Environmental & NBWL clearances and have also submitted the Wildlife Conservation plan as mandated in the OM and required by the EAC.
12. It is submitted that para 4(i) of the OM dated 8th August 2019 (Annexure -3A), requires prior clearance of NBWL in the cases which are located within the notified ESZ. It is humbly submitted that to the best of the knowledge of this respondent that this is not a notified ESZ, still even if the 5 kilometre buffer zone is considered at par with the ESZ then we are required to obtain prior NBWL clearance i.e. we are required to obtain prior NBWL clearance for the expansion activity this condition is specifically

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mentioned in the EC granted to us. We had submitted an application on 30/5/2020 and resubmitted on 26/12/2020 (Annexure -4) SWLB for the NBWL clearance and is being diligently followed up with the concerned statutory authorities.. The same is under due process and consideration before the appropriate authorities.

It is humbly submitted that in para 24 of the Respondent - 1 reply, it has been stated that NBWL clearance for the project is necessary if it is within the bird sanctuary or within 10 kilometres of the sanctuary and in the very next para 25, they have mentioned applicability of para 4(iii) of OM dated 8th August 2019. Para 4(iii) reproduced below mandates simultaneous application for EC and NBWL clearances, where ESZ notification is not notified or ESZ notification is in draft stage:

"Proposals involving developmental activity/project located within 10 km of National Park/Wildlife Sanctuary wherein final ESZ notifications not notified (or) ESZ notification is in draft stage, prior clearance from Standing Committee of the National Board for Wildlife (SCNBWL) is mandatory. In such cases, the project proponent shall submit the application simultaneously for grant of Terms of Reference/environmental clearance as well as wildlife clearance."

13. The Ministry of Environment & Forests had issued ESZ guidelines dated 9th February 2011 (Annexure – 4A), requiring an ESZ surrounding all notified sanctuaries/ national parks. The area of the ESZ can be up to 10 kms or less, depending upon the requirement. All the states were asked to submit the details of proposed ESZ around the sanctuaries in their respective states. In the best of the knowledge of answering respondent, state of Tamil Nadu never responded to this requirement, for the Vedanthangal Bird Sanctuary. Considering that 5 Kms surrounding lake is buffer zone and nothing beyond that, TN Government had proposed to reduce this 5 Kms area to 3 Kms vide proposal dated 23rd January 2020 (Annexure- 5).

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14. It is humbly submitted the EIA notification of 1994 (Annexure -6) and circular from MoEF dated 20th February 2001 (Annexure -6A) has a provision for making change in the product mix, provided the pollution load permitted earlier is not exceeded, as is also submitted by respondent -1 in para 7 of its reply. In the present case we changed our product mix in 2005 after calculating the pollution load of existing versus proposed product mix on the basis of environmental viability study conducted by Anna University Chennai, at the recommendation of Respondent -3 namely Tamil Nadu Pollution Control Board. Even after EIA notification of 2006 (Annexure -7) the provisions for change in product mix by keeping the pollution load at the similar level was permitted in circular number F.NO J-11013/41/2006-IA-II(I) dated 14th December 2006 (Annexure -8). As per the provisions of the 1994 EIA notification, subsequent circular dated 20th February 2001 and environmental viability study conducted by Anna University, as required by the Tamil Nadu Pollution Control Board, we were issued Consent to Establishment for the change in the product mix in the year 2005 and Consent to Operate in the year 2006 by Respondent -3. We have also duly applied for renewal of consents as mandated within the time frame along with the renewal fees.
15. It is humbly submitted that, the proposed expansion by the answering respondent is within the existing boundary of the Unit only. The answering respondent had received Consent to Establishment from TNPCB for change in the product mix in the year 2005 on the basis of EIA 1994 notification, circular dated 20th February 2001 and Anna University environment viability study report and subsequently received Consent to Operate from TNPCB in the year 2006. The answering respondent had applied for EC for proposed expansion and the same was granted by MoEF & CC on dated 31.03.2022.



DEPONENT

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- M.A. JOY
General Manager - Operations

VERIFICATION

Verified at Chennai on 21st this day of July, 2022 that the contents of the above affidavit are correct to my knowledge and belief based on official records and nothing material has been concealed there from.



DEPONENT

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M.A. JOY

General Manager - Operations

**BEFORE THE HON'BLE
NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE CHENNAI
Original Application no 88 Of 2020**

Meenava Thanthai
K.R.Selvaraj Kumar,
Meenavar Nala Sangam,
Represented by its
President, M.R. Thiyagarajan

...Applicant(s)

Vs

Union Of India & 3 Others

... Respondents

**Rejoinder Affidavit of the 4th
Respondent**

A. Ramesh Kumar
Advocate, Chennai