

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE) AT CHENNAI**

**APPEAL No.38 OF 2022**

**IN THE MATTER OF:**

**GANAPATI DIXIT & OTHERS**

....Applicant

**AND**

**UNION OF INDIA & OTHERS**

....Respondent

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Date: 14.09.2022

Place: Hyderabad

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**APPEAL No.38 OF 2022**

**IN THE MATTER OF:**

GANAPATHI DIXIT & OTHERS

– APPELLATES

V/S

UNION OF INIDA & OTHERS

– RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT Nos.3 and 4**

I, Sri. V. Madhusudan S/o. Sri. V. Ramakistayya , Aged about 52 years,  
Occ: CEO(P), TSIIC, R/o. Hyderabad do hereby solemnly affirm and  
sincerely state on oath as follows;

1. I am working as CEO(Projects) in the Telangana State Industrial Infrastructure Corporation Limited(TSIIC) respondent corporation and I am authorized to depose on behalf of Respondent No. 3~~4~~ herein to file this Counter Affidavit.
2. I have read and understood the contents of Appeal and deny all the material allegations made therein, except those that are specifically admitted hereunder.
3. It is submitted that the present Appeal is filed challenging the Environmental Clearance vide No.EC22A031TG158692, Fine No.21-370/2017-IA.III, dated 29.04.2022 issued by the Ministry of Environment, Forest and Climate Change, Government of India granted for setting up of Zaheerabad National Investment and Manufacturing Zone(NIMZ) by Telangana State Industrial Infrastructure Corporation in 12,635.14 Acres at Zaheerabad of Sangareddy District in Telangana State.

  
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4. It is respectfully submitted that the TSIIC is a Company registered under the Companies Act and an undertaking of State of Telangana. The TSIIC/Project Proponent has taken up the project for setting up of NIMZ.
5. It is submitted that the allegation that there are number of ToR conditions which have not been complied with by the Project proponent, which the EAC has failed to consider, is incorrect. Hence denied and the Applicant is put to strict proof of the same. It is submitted that all ToR conditions have been complied with and addressed in the EMP.
6. In reply to para A and B of the grounds on which the EC is challenged, that the proposed project consists of about 75 % of fertile agriculture land where farmers cultivate turmeric, ginger, sugarcane, cotton, millets etc. That the diversion of the fertile agriculture land will cause irreparable loss to food security and livelihood to more than 20,000 farmers and farm laborers and the EAC recommended that "Acquisition of agricultural/ fertile lands should be avoided, since agriculture ensures a critical number of ecosystem services and is vital for food security and supports the Sustainable Development Goal. Agricultural land is lifeline for those poor people/farmers whose livelihoods are completely dependent of their land and crops they grow." But the impugned order was issued without considering this crucial aspect which will allow the project proponent to proceed for acquisition and diversion of 12635 acres of land including fertile agriculture land is incorrect. Hence denied and the Applicant is put to strict proof of the same

It is respectfully submitted that TSIIC has acquired land for the development of Industrial Park which is identified as a project

of National importance and declared as a National Investment and Manufacturing Zone(NIMZ). Duly following the orders issued by the Govt. from time to time and as per land acquisition policy in vogue. Further, the lands were acquired duly taking the consent of the farmers.

The total proposed Project Area is 12635.14 Acres of which Govt. Land is 3862.10 Acres (Assigned & unassigned), Patta/private land is 8773.04 Acres.

Land Use/Land Cover map was prepared as per the National Remote Sensing Centre 2019-20 satellite imaginary is found that around 44.6% of land is scrub land followed by agriculture crop land of 27.65 %, Agriculture plantation of 0.8 % and Agriculture Fallow land of 26.21%.

S. No	Land Use Type	Area (Ha)	% of Total Area
1	Scrub Land	2280.21	44.60
2	Agriculture: Crop Land	1413.70	27.65
3	Agriculture: Fallow	1339.92	26.21
4	Agriculture: Plantation	40.89	0.80
5	Rocky Area	21.77	0.43
6	Builtup-Rural	15.63	0.31
7	Waterbodies: Tanks/pond/lakes	0.89	0.02
	<b>Total</b>	<b>5113</b>	<b>100</b>

7. In reply to para C of the grounds that 13 Reserve forests are situated around the Project activity. That the EAC initially deferred the proposal on the ground that the activity will have adverse impact on reserve forest. But this aspect was completely missed

  
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subsequently and recommended for Environment Clearance, without citing any valid reasons or rationale is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that during 182<sup>th</sup> meeting held on 21.12.2017, EAC has sought the details about proper criteria followed for selection of proposed site out of 3 alternate sites, as proposed site is having 13 reserved forest around it. A detailed Clarification was submitted on 16.01.2018. During its 183<sup>rd</sup> meeting of EAC held on 24.01.2018 that keeping in view of requirements as per Govt. of India, National Manufacturing policy for NIMZ for future investments after analyzing the most suitable site location.

Considering the sufficient Land availability, Minimal R&R, Involvement of Scrub land, Barren/Uncultivable/Waste land, Better connectivity and without Environmental Sensitive Areas, Near Zaheerabad has been selected for the Development of NIMZ. TSIIC along with their project consultants IL&FS Infrastructure Development Corporation (IIDC) has carried out thorough analysis of land delineation with an aim to eliminate R&R, to include mostly scrub land and waste land etc. It is pertinent to mention that there is no forest land involved in the area proposed for NIMZ development. Though there are Reserve Forests are observed in the study area, there is no Flora and Fauna of conservation significance is observed. This site was assessed with regard to connectivity, physical site features, impact on adjoining land use, etc., for suitable integration to form into a single NIMZ region. In order to assimilate the land parcels into a contiguous land parcel, intermittent areas were identified, by excluding settlements / gotten lands, and conforming to the NMP guidelines. The land delineated for the NIMZ therefore primarily includes wastelands and

government-owned lands. The selected site was approved by the High Level Committee (HLC) including Ministry of Environment and Forests, chaired by Secretary to GoI (DIPP) as per NIMZ Scheme and final approval for the Zaheerabad NIMZ was accorded on January 22, 2016. The existing land use at the site, is therefore primarily scrub land, followed by single crop agricultural lands. The government land constitutes of 31% and 69% of private land.

EIA including specific biodiversity studies were conducted with reputed consultant to Develop a Greenery and Conservation Management Plan to Sustain Existing Greenery. The Studies were conducted and reports were submitted by reputed consultant consortium of M/s. Environmental Matters and M/s. Oikos to comply the suggestions of EAC and the same was accepted by EAC, MoEF&CC.

8. In reply to para D of the grounds that the Public Hearing was not conducted in free and fair manner. That the Public hearing was organized during the Covid- 19 pandemic. That many of the affected farmers were not allowed to participate and express their views is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that Public Hearing was conducted duly following the covid pandemic rules and every opportunity was given to each and every individual present in the public hearing and also accepted all the representations given by the public. The present petitioner is also one of the participant in the public hearing and the opportunity was given to express his views.

9. In reply to para E of the grounds that the baseline studies are conducted during winter which will not give accurate picture is incorrect. Hence denied and the Applicant is put to strict proof of the same.

Following the Technical EIA Guidance manual for Industrial Estates, MoEF&CC, GoI, EIA studies were conducted during non monsoon season.

10. In reply to para F of the grounds that the Socio-Economic Impact assessment supposed to be carried as part of Environmental Impact Assessment Study was completely given a go-by and no details with regard to the same are incorporated in the final EIA report is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that the socio-economic profile is studied and analyzed based on the Census of India, 2011 and also the socio-economic profile of the Project villages is developed from the SamagraKutumba Survey (SKS) conducted by Government of Telangana in 2015 (refer G.O.Rt.No.50 Planning(VIII) Department dated 04.08.2014).

11. In reply to para G of the grounds that the EIA report contains many contents cut and pasted from the reports relating to other projects is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that the project proponent has engaged a reputed consultant to carry out the EIA report and EIA report has only used the semantics and no data has been used from any previous studies. These clarifications were already submitted to National Accreditation Board for Education and Training (NABET), after considering the same EAC, MoEF&CC issued the EC. Hence, this aspects cannot be construed as plagiarism (cut and paste).

Common details which are of similar nature for any construction project were only referred to and alleged as plagiarism in the report. Whereas the other sections related to project specific studies and mitigation measures were not referred to.

12. In reply to para H of the grounds that the project proponent suppressed and misrepresented the facts with regard to having possession of agriculture land procured under G.O.Ms.No.123 dt. 30.07.2015 to an extent of around 3000 acres, which in fact is in the possession of the land owners till date and there are stay orders persisting in the Hon'ble High Court is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is submitted that, TSIIC has acquired land at Zaheerabad for establishment of NIMZ as per rules. After taking consent, compensation was paid to the assignees/Pattadars as per G.O Ms. No.123 Revenue (JA & LA) dt:30.07.2015,. The possession of the land was handed over to TSIIC under cover of Panchanama (Copies Enclosed). At present the possession of the land is with TSIIC only. The contention that possession of the land is with land owners till date is incorrect.

13. In reply to para I, J and K of the grounds that the EC ignored both theprecautionary principle and the polluter pays principle which iscontrary to the pronouncements of the Hon'ble Supreme Court such as:

- (1996) 5 SCC 547 at para 10 to 20 *Vellore Citizen's Welfare Forum v. Union of India*
- (1997) 2 SCC 87 at para 49, 52 *S. Jaggannath v. Union of India*
- (2006) 6 SCC 371 at para 66, 77, and 94 *Karnataka Industrial Areas Development Board v. C. Kenchappa*.

That the environmental measures to be taken by the Government and statutory bodies must anticipate, prevent any attack which causes environmental degradation. But the project proponent is proceeding with the project without taking mandatory environment protection measures.

That the proposed project will cause irreparable loss to water bodies such as Narinja reservoir, various streams and lakes. This aspect was casually dealt by the project proponent.

It is respectfully submitted that the NIMZ Project is still in the initial stage and all environmental precautionary measures will be taken up in the implementation stage. As per the norms and follow the conditions laid down in EC.

The condition laid down to maintain Environmental measures and water bodies, the following conditions were already laid down while issuing EC by MoEF&CC which will be followed during the implementation stage.

**Green belt:**

An overall green area of at-least 33% of the Industrial Area should be developed with native species. The project proponent of the Industrial Area shall comply with the additional commitment made by them in the EIA report regarding the development of green belt. (ii) The Industrial Areas are directed to accordingly allocate the area to be developed as green cover to respective individual industrial units so as to achieve the above mentioned condition. (iii) The individual industrial unit, at the time of obtaining EC, shall bring a letter from the Industrial Area for the area allocated to them to be developed as green cover as a part of obligation from the Industrial Area. (iv) Wherever possible, plantations around the periphery of the Industrial Area, in the downwind direction and along the road sides shall be provided for containment of pollution and for formation of a screen between the industrial area and the outer civil area. The choice of plants should include shrubs of height 1 to 1.5 m and tree of 3 to 5 m height. The intermixing of

trees and shrubs should be such that the foliage area density in vertical is almost uniform. EC Identification No. EC22A031TG158692 File No.21-370/2017-IA.III Date of Issue EC - 29/04/2022 Page 10 of 13 Page 10 of 12  
(v) The parameters like selection of plant species, procedure for plantation, density of tree plantation etc shall be as per the CPCB guidelines. VIII. Public hearing and human health issue.

Based on the Environmental Matters and Oikos team suggestions, Master Plan was revised with due considerations of green areas. The green area cover increases to ~2027.6 Ac. in the revised master plan from ~1976 Ac. In the revised final master plan for NIMZ the following two aspects will be worked.

### **Water Bodies:**

Details of water bodies, impact on drainage: The nearest water bodies from the proposed development is MadhuraNadi at 0.2 km, S and Narinja Reservoir at 1.5 km, S. The existing streams/drains within the project site will be retained as per the ToR requirement from MoEF&CC. The drains passing through the area shall be routed as per the proposed drain routing plan. Due care will be taken during construction to avoid spillage of construction materials. An adequate drainage system will be provided at the site with separate collection streams to segregate the storm run-off from roads, open areas, material storage areas, vehicle wash water and other wastewater streams. Drainage system will be provided at construction yard. Measures will be taken to prevent silting of natural drainage due to runoff from construction areas. Proper drainage by providing surface drainage system from the development parcels and connecting to storm water network. Natural drainage wherever retained will be strengthened to receive the newly channelled drainage to withstand the increased flow rates. Storm water drainage network is to be designed wherever diversion of the drains is proposed. At all drains

located near the discharge points into natural drains a desilting and filter chambers shall be provided at suitable intervals which shall be preferably located right below the manhole covers provided on top of the drain to enable periodic cleaning and de-silting of these wells.

14. In reply to para L of the grounds that the MoEF and Project proponent havenot considered therepresentations and objections of the affected farmers is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that during the Public hearing ample opportunity was given to all the farmers and the representations received during Public Hearing, representations received through e-mail and grievances raised during the P.H were addressed and included in the final EIA report, after considering the replies, the EAC, MoEF& CC has granted the Environmental Clearance on 29.04.2022.

15. In reply to para M of the grounds thatthe project proponent suppressed and misrepresented the facts with regard to actual extent under cultivation and the actual extent of subject land allegedly taken into possession by the projectproponent, before the EAC and the EC was granted based on thesaid concocted factsis incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that complete land details of the project area are submitted to EAC, MoEF&CC duly considering the facts, MoEF&CC has issued Environmental Clearance.

16. In reply to para N of the grounds that the competent authority did not consider the representation made by the affected farmers to the competent authority, bringing to its notice the aspect of suppression and misrepresentation of facts by the project proponent and requesting not to grant EC, but proceeded to grant Environment Clearance, which is against

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the principles of natural justice and fair play as well as the condition stipulated in the minutes of the EAC meeting, which reads as, “The EAC noted that the Project Proponent and the consultant have submitted undertaking that the data and information given in the application and enclosures are true to the best of their knowledge and belief and no information has been suppressed in EIA/EMP report. If any part of data/information submitted is found to be false/ misleading at any stage, the project will be rejected and Environmental Clearance given, if any, will be revoked at the risk and cost of the project proponent” is incorrect. Hence denied and the Applicant is put to strict proof of the same.

It is respectfully submitted that all the representations and the written representations received during Public Hearing including representations received through e-mail and grievances raised during the P.H were addressed and included in the final EIA report after considering the replies, the EAC, MoEF& CC has granted the Environmental Clearance on 29.04.2022 and the project proponent will adhere to the undertaking submitted in the report.

17. It is submitted that the Answering Respondent reserves his right to file an Additional Counter affidavit during the course of hearing in the said Appeal as and when required.

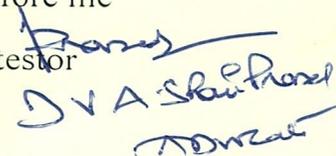
In view of the above mentioned facts, this Hon'ble Tribunal may be pleased to pass orders as may deem fit in the interest of justice. The Answering Respondent prays accordingly.

  
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Sworn and signed before me on this the  
12<sup>th</sup> day of September, 2022 at Hyderabad.

Before me

Attestor

  
 JVA Sankar  
 AD/Secy

**VERIFICATION STATEMENT**

I, Sri. V. Madhusudan, S/o. Sri. V. Ramakistayya, Aged about 52 years, Occ: CEO(Proj), TSIIC R/o. Hyderabad the deponent herein do hereby state the contents of the above paras are true to the best of my knowledge and belief.

Verified on this the 12 day of September, 2022 at Hyderabad.

Deponent

  
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**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), AT CHENNAI**

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– APPELLATES

V/S

UNION OF INIDA & OTHERS

–

RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT Nos.3 and**

**4**



Mr.Sanjeev Kumar

Special Government Pleader for the State of Telangana.

