

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**ORIGINAL APPLICATION No. 213 OF 2021**

**IN THE MATTER OF:**

**S. SAKTHIVEL**

**...APPLICANT**

**VERSUS**

**THE SECRETARY, MOEF &CC**

**NEW DELHI & ORS.**

**... RESPONDENTS**

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**FILED BY:**

**ARDHENDUMAULI KUMAR PRASAD**

Senior Central Government Standing Counsel

National Green Tribunal

A-52, Sector – 17 A, Noida, Uttar Pradesh- 201301

**Dated: 20.12.2021**

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SOUTHERN ZONE, CHENNAI

ORIGINAL APPLICATION No. 213 OF 2021

IN THE MATTER OF:

S. SAKTHIVEL

...APPLICANT

VERSUS

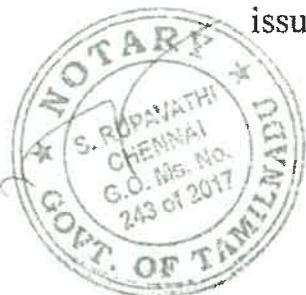
THE SECRETARY, MOEF&CC NEW DELHI& ORS.

...RESPONDENTS

COUNTER AFFIDAVIT/ REPLY ON BEHALF OF RESPONDENT NO.5/  
CENTRAL GROUND WATER AUTHORITY

I, Dr. S.SubramanianS/o Late A SundaramurthyAged 49 employed as Head of Office Central Ground Water Board, SECR functioning at Chennai do hereby solemnly affirm and declare as under:

1. That I am duly authorized and competent to swear this affidavit on behalf of Central Ground Water Authority, Department of Water Resources, River Development and Ganga Rejuvenation, Ministry of Jal Shakti, Government of India, in the above matter.
2. That I have read and understood the original application and filing this Counter Affidavit on behalf of Fifth Respondent.
3. That I have read and understood order passed by the Hon'ble NGT and filing this Counter Affidavit in compliance of direction passed by the Hon'ble Tribunal.
4. At the outset, I humbly submit that, the Central Ground Water Authority has been unnecessarily implicated as a party, in order to circumvent the issue.



*A. Subramanian*  
DR. S. SUBRAMANIAN  
HEAD OF OFFICE  
CENTRAL GROUND WATER BOARD  
SECR  
DEPARTMENT OF WATER RESOURCES,  
RIVER DEVELOPMENT AND GANGA REJUVENATION  
MINISTRY OF JAL SHAKTI,  
GOVERNMENT OF INDIA  
CHENNAI - 600 001

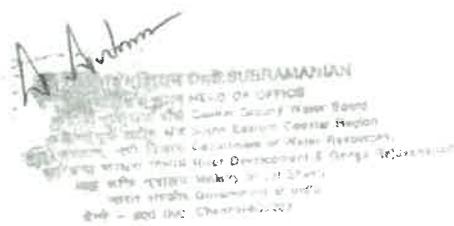


technology shall be undertaken in any part of India only after the Environmental Clearance from the Central Government or as the case may be, by the State level Environment Impact Assessment Authority.

8. It is submitted that the Central Ground Water Authority vide letter dated 28.11.2014 has entrusted the State Ground and Surface Water Resources Data Centre (SG & SWRDC), Tamil Nadu the power of issuance of all NOCs furthermore, as per the G.O 142 of Tamil Nadu, only Chief Engineer is empowered to issue NOC. Therefore, regulation of Ground Water and Issuing/Renewal of NOC to the project proponents in the State of Tamil Nadu is not within the purview of CGWA. All the compliance and renewal of the NOC is being regulated by the (SG & SWRDC) in order to avoid any duplication in the regulation activity of the state of Tamil Nadu and CGWA/CGWB is not representing in the state of Tamil Nadu.

**PARA WISE REPLY:**

9. That, the contents of Para 1 to 5 are matter of record.
10. That the contents under Para 6 pertains to constitution of CGWA, consequent thereto, the CGWA under the Environment (Protection) Act, 1986 is empowered/authorized to:
- (i) Exercise powers under Section 5 of the Environment Protection Act, 1986 for issuing directions and initiating such measures, in respect of all matters referred in Section 3 (2) of the Act.
  - (ii) Resort to penal provisions, contained under Sections 15-21 of the Act.
  - (iii) Regulate, control, manage and develop ground water in the country, while issuing necessary regulatory directions for such purpose; and
  - (iv) Exercise powers under Section 4 of the Act, for appointment of officer(s).

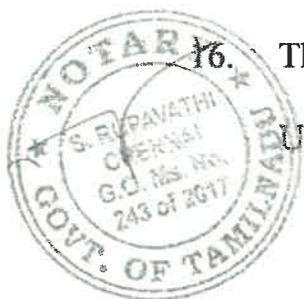


In spite of CGWA's PAN India guidelines notification circulated to all State authority in India for adoption, Govt of Tamil Nadu is being regulating the ground water extraction and regulation in the State through GOS.

11. The contents of Para 7 to 14 are matter of record.
  12. In reply to the contents of Para 15 it is submitted that on 28<sup>th</sup> November 2014, CGWA, New Delhi has entrusted, State ground and Surface Water Resources Data Centre in Tamil Nadu, for the issuance of NOC in all categories, all regulation and monitoring are controlled by the Chief Engineer, PWD, Taramani, Chennai.
  13. The contents of Para 16 and 17 are matter of record.
  14. That, the content of Para 18 are denied as it relates to failure to take necessary action against Respondent No. 6. The CGWA, New Delhi has entrusted the State Ground and Surface Water Resources (SG & SWRDC), Tamil Nadu the issuance of all NOCs furthermore, as per the G.O 142 of Tamil Nadu, only Chief Engineer is empowered to issue NOC. Therefore, all the compliance and renewal of the NOC is being regulated by the (SG & SWRDC) in order to avoid any duplication in the regulation activity. Furthermore, regulation of Ground Water and Issuing/Renewal of NOC to the project proponents in the State of Tamil Nadu is not within the purview of CGWA/ CGWB and the CGWA/CGWB is not representing in the State of Tamil Nadu.
- True Copy of the letter dated 28.11.2014 is marked herewith and annexed as ANNEXURE R-1.

15. The contents of Para 19 to 23 are matter of record.

16. The contents of Para 24 pertain to PAN India guidelines notified by the Union Government vide notification number 3289(E) dated 24/9/2020.



A. Anand  
 S. SUBRAMANIAN  
 HEAD OF OFFICE  
 Centre for Ground Water Board  
 South Eastern Coastal Region  
 Department of Water Resources,  
 River Development & Ganga Rejuvenation  
 Ministry of Jal Shakti  
 Government of India  
 Chennai-600090

The guidelines were circulated to all the Chief Secretaries inviting their comments and insights, the same is still awaited from the end of Government of Tamil Nadu. CGWA issues NOCs to industries/infrastructure/mining units in those States and UTs which do not have their own Ground Water Authority, as per Annexure VIII of the Guidelines. Furthermore, vide letter dated 10.02.2021, the Chief Secretaries of all States were also informed that wherever the State/UT Governments are regulating ground water development, such States/UTs can have stringent provisions in addition to CGWA Guidelines dated 24.09.2020, but these provisions will not be applicable to Exemption categories as specified in CGWA Guidelines.

True Copy of the letter dated 10.02.2021 is marked herewith and annexed as ANNEXURE R-2.

17. The contents of Para 25 to 28 does not pertain to the answering respondent.
18. The content under grounds from Para (a) to (i) does not pertain to the answering Respondent.

It is respectfully submitted that the application may kindly be disposed with orders/ directions as deemed fit and proper in the facts and circumstances of this case. The answering respondent may kindly be exempted from personal appearance.



*A. Anbar*  
**DEPONENT**  
 M. S. SUBRAMANIAN  
 OFFICE: 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 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1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 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Dr. K.Md. Najeeb  
Member Secretary



भारत सरकार  
केन्द्रीय भूमि जल प्राधिकरण  
जल संसाधन मंत्रालय

Government of India  
Central Ground Water Authority  
Ministry of Water Resources

D.O. No. 26-1/CGWA/DLEC/2013/Vol-II - 2012

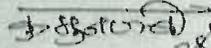
28 NOV 2014

Dear Shri. Saikumarji

I would like to refer to the meeting held with you by Regional Director, Central Ground Water Board, South Eastern Coastal Region, Chennai on 15.10.2014 on the issue of regulation of ground water development and issuance of NOC to industrial/infrastructure/mining projects in the state of Tamil Nadu. It was informed by your goodself in the meeting that Tamil Nadu state is regulating the issuance of NOC through G.O. 52 and recently G.O.142 has also been circulated to all line departments mentioned that "the Chief Engineer, SG & SWRDC, Public Works Department is the authority to issue NOC/license by imposing conditions and also empowered to reject or decline any of the request on technical grounds after scrutiny". In view of the above and to avoid any duplication in the regulation activity, CGWA has decided not to issue NOC for ground water withdrawal to industrial/infrastructure/mining projects in the state of Tamil Nadu. Regional Director, Central Ground Water Board has been advised not to accept any application in future and also return the pending applications received so far to the project proponents with an advice to approach Chief Engineer, SG & SWRDC, Public Works Department, Govt. of Tamil Nadu. This office will also take similar action in case of pending proposals with CGWA.

With Regards

Yours sincerely

  
(Dr. K.Md. Najeeb) 28/11/14

Shri M. Saikumar, IAS  
Principal Secretary (Public Works Department)  
Govt. of Tamil Nadu  
Secretariat  
Chennai

उपरोक्त  
अनु. (ग.प.प.)  
दि. 28/11/14

West Block - 2, Wing - 3, Sector - 1, R.K. Puram, New Delhi - 110066  
Tel : 011-26175362, 26175373, 26175379 • Fax : 011-26175369  
Website : www.cgwb.gov.in, www.mowr.gov.in

स्वच्छ सुरक्षित जल - सुन्दर स्वस्थता का  
SAFE WATER - SAFE LIFE

18562/2021/O/o RD(CGWA)

File no: -CGWA-21/6/2020- 50  
 Government of India  
 Ministry of Jal Shakti  
 Central Ground Water Authority  
 18/11, Jammagar House, Mansingh Road  
 New Delhi - 110011  
 E-mail: [cgwa@nic.in](mailto:cgwa@nic.in)

Date - 10 FEB 2021

To,

The Chief Secretaries of all States

Sub: Clarification regarding exemptions from seeking No Objection Certificate

Sir,

Ministry of Jal Shakti, Department Of Water Resources, River Development and Ganga Rejuvenation has notified its revised guideline to regulate and control ground water extraction in India on 24/09/2020 through gazette notification S.O. 3289(E).

As per the guideline following categories of consumers are exempted from seeking No Objection Certificate for ground water extraction:

- (i) Individual domestic consumers in both rural and urban areas for drinking water and domestic uses.
- (ii) Rural drinking water supply schemes.
- (iii) Armed Forces Establishments and Central Armed Police Forces establishments in both rural and urban areas.
- (iv) Agricultural activities.
- (v) Micro and small Enterprises drawing ground water less than 10 cum/day.

These guidelines will have pan India applicability. In case, where States/UTs with their own groundwater abstraction guidelines, which are inconsistent with the CGWA guidelines, the provisions of CGWA guidelines will prevail. In case the guidelines followed by such States/ UTs contain some more stringent provisions than CGWA guidelines, such provisions may also be given effect to by the States/ UTs Authorities in addition to those contained in the CGWA guidelines.

In the 44<sup>th</sup> meeting of Central Ground Water Authority held on 20/10/2020, it was decided that wherever the States/UTs Governments are regulating ground water development, such States/UTs can have stringent provisions, but these provisions will not be applicable to EXEMPTION categories and this has to be honoured as per the guidelines.

Yours faithfully

  
 (Sunil Kumar) 10/2/21  
 Member CGWA

O/L

Copy to:

1- The Director (Ground Water), DoWR, RD & GR, Ministry of Jal Shakti, Shram Shakti Bhawan, Rafi Marg, New Delhi

  
 (Sunil Kumar) 10/2/21  
 Member CGWA

O/L

  
 श्री. सुब्रमण्यम डी. एस. सुब्रमण्यम  
 श्री. सुब्रमण्यम डी. एस. सुब्रमण्यम  
 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

  
 Mrs S. RUPAVATHI, M.A., M.L.  
 Advocate & Notary Public  
 Commissioner of OATHS  
 3, Indhira Gandhi Nagar,  
 Aminjikarai, Chennai-600 029  
 Cell: 9841133686



**VAKALATNAMA  
BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

Original Application No. 213 of 2021(SZ)

**IN THE MATTER OF:**

S. Sakthivel

...APPLICANT

V E R S U S

The Secretary to Government of India,  
MoEF & Climate change and Others

..RESPONDENT

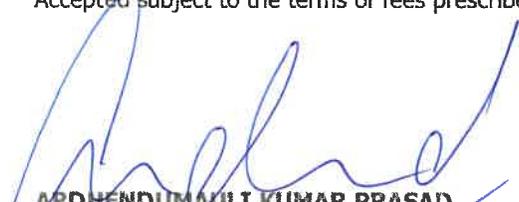
KNOW ALL to whom these present shall come that I/We **Dr. S Subramanian aged about 49 years S/o. Late A. Sundaramurthy, working as Head of Office, having Office at E-1, C Block, Rajaji Bhawan, Besant Nagar, Chennai – 600 090.** The above named do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

To act, appear and plead in the above-noted case in this Tribunal in which the same may be tried or heard subject to payment of fees by CGWB. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other applications/petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money AND cheques towards compensation, grant receipts thereof and to do all other lawful acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. And I/We the undersigned do hereby agree to ratify and confirm all lawful acts done by the Advocate or his substitute authorized by Tribunal in the matter as my/our own acts, as if done by me/us to all intents and purposes. And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid in terms of M/o law & Justice OMs/Orders/guidelines, to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Tribunal. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same unless it is erroneously settled and if the case prolongs for more than 3 years the fee shall be regulated in accordance with the guidelines of M/o Law & Justice issued from time to time.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 11<sup>th</sup> day of November, 2021.

Accepted subject to the terms of fees prescribed by M/o Law & Justice for cases in NGT.

  
**ARDHENDUMAULI KUMAR PRASAD**  
Senior Central Government Standing Counsel  
A-52, Sector 17-A, NOIDA, U.P. 201301  
Mobile No. 9818612800  
E-Mail: mail@ardhendumauli.com

CLIENT

  
**DR. S. SUBRAMANIAN**  
Advocate  
1112003  
1112011  
2752076



# a

Ardhendumauli Prasad &lt;mail@ardhendumauli.com&gt;

---

**Counter Affidavit: O.A. No. 213 of 2021(SZ): S. Sakthivel Versus The Secretary, MOEF & CC New Delhi & Ors**

1 message

**Chambers of Mr. Ardhendumauli Kr. Prasad** <mail@ardhendumauli.com>

Mon, Dec 20, 2021 at 3:41 PM

To: vivek.adv.tharai@gmail.com, secy-moef@nic.in, cgmchennai32@gmail.com, collrslm@gmail.com, deetnpcbslm@gmail.com, dalmiamagnesitemines@yahoo.com

Respected Sir(s),

Please find attached Counter affidavit to be filed on behalf of Respondent No. 5 (CGWA) in the above-captioned matter.  
**Kindly treat this as an effective service.**

Regards,  
Ashish Madaan  
Advocate

**FOR:****Mr. Ardhendumauli Kumar Prasad**Advocate on Record  
Supreme Court of India**Office:**A-52, Sector 17A,  
NOIDA - 201301  
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**Reply\_ S Sakthivel Versus Secy MOEF and CC Nw Delhi and Ors..pdf**

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