

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
ORIGINAL APPLICATION NO.223 OF 2021**

Thiru.S.Somasekar Seshachalam

S/o.V.Seshachalam

1/24, Middle Street

Kaverirajapuram, Tiruvallur

Tamil Nadu - 631210

Phone: 9790971141

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...Applicant

Versus

1. Ministry of Environment, Forest and Climate Change

Rep by its Secretary

Jor bagh Lodhi Colony

New Delhi - 110003

Phone: +91 11 24695262

Email: sacy-moef@nic.in

2. The Member Secretary

State Level Environmental Impact Assessment Authority (SEIAA)

No.1, Panagal Maligai Building, 3rd Floor

Jeenish Road, Saidapet Chennai-600015

Email: seiaastn@gmail.com

3. The Secretary, Industries Department

Commissionerate of Industries and Commerce

SIDCO Corporate Office Building

Thiru-vi-ka Industrial Estate

Guindy, Chennai-600062

Email: indcom@in.gov.in, indcochn@gmail.com

4. The District Collector

Tiruvallur

Tiruvallur District, Pincode-602001

Email: collrtlr@nic.in

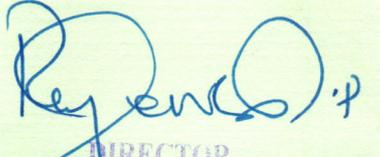
5. The Chairman

Tamil Nadu Pollution Control Board

76, Mount Salai, Guindy,

Chennai-600032

Email: tnpcb-chn@gov.in

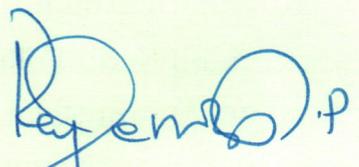

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DEPARTMENT OF ENVIRONMENT
CHENNAI - 600 015.

6. The District Environment Engineer
Tamil Nadu Pollution Control Board
1st Floor, 77-A, South Avenue Road
Ambattur Industrial Estate, Chennai-600058
Email: deeambattur@gmail.com
7. Tamil Nadu Small Industries Development Corporation Limited,
Rep by its Chairman & Managing Director
TANSIDCO, SIDCO Corporate Office Building
Thiru-vi-ka-Industrial Estate
Guindy, Chennai-600032
Email: ho.Sidco@nic.in
8. TANSIDCO regional Office
Branch Manager Kakalur
Ramapuram Putlur Road
Kakalur Industrial Estate
Thiruvallur, Tamilnadu-602003
Email: bmkklr.sidco@nic.in ... Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF SECOND RESPONDENT

I, Tmt.Rajeswari.P, I.F.S., Director, Department of Environment, Government of Tamil Nadu having office at, Ground Floor, Panagal Maaligai, No1,Jeenis Road, Saidapet, Chennai-600015, do here by solemnly affirm and state as follows;

1. I respectfully submit that as per the G.O.(Ms)No:260 Environment and Forests (EC.3) dated: 15.12.2012 the Directorate of Environment is nominated to the function as the secretariat for the State Level Environment Impact Assessment Authority and State Level Expert Appraisal Committee from the date of issue of the order.
2. I respectfully submit that as per the Ministry of Environment, Forests and Climate Change, New Delhi Notification S.O.No.5651 (E), dated: 05.11.2018, the tenure of State Level Expert Appraisal Committee and State Level Environment Impact Assessment Authority – Tamil Nadu expired on 04.11.2021 on completion of three years. Also, MoEF&CC is yet to reconstitute SEAC/SEIAA in Tamil Nadu.


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3. I respectfully submit that I am filing counter affidavit on behalf of 2nd Respondent herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
4. I respectfully submit that at the outset, I deny the averments stated in the application as false except those that are specifically admitted hereunder and put the applicant to strict proof of the same.
5. I respectfully submit that, the Hon'ble National Green Tribunal, Southern Zone, Chennai in O.A. No.223 of 2021 dated: 01.11.2021 has ordered that

"...14. In order to ascertain the genuineness of the allegations made in the application, we feel it appropriate to appoint a Joint Committee comprising of (i) District Collector, Tiruvallur or a Senior Officer not below the rank of Assistant Collector/Sub Divisional Magistrate as deputed by the District Collector, (ii) District Environmental Engineer, Tamil Nadu Pollution Control Board, (iii) a Senior Officer from the State Environment Impact Assessment Authority, Tamil Nadu and (iv) a Senior Officer from the Ministry of Environment, Forests & Climate Change (MoEF&CC), Integrated Regional Office, Chennai to inspect the area in question and submit a factual as well as action taken report, if there is any violation found.

15. The committee is directed to ascertain as to (i) whether the proposed project requires any Environmental Clearance (EC), (ii) whether any act done by the Respondents No.7 & 8 in the alleged process of making preparation will amount proceed with the work without obtaining Environmental Clearance (EC), (iii) whether there exists any Odai/ Water channel as claimed by the applicant either in the property proposed for project purpose or abutting the property and on account of any act, any damage has been caused to the existing Odai in that property, which is shown as per the A-Registrar Extract produced by the applicant and also the original revenue records and (iv) whether any encroachment has been made in any portion of the water body or water channel as described in the original revenue records in that area and if so, what is the nature of action taken by the authorities in this regard.

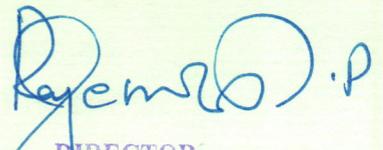
Raymond P
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16. The committee is also directed to ascertain as to (v) whether any Consent to Establish is required before doing any work in that area for the project, (vi) if they did not obtain the same, what is the nature of action taken in this regard, (vii) whether the project proponent has obtained necessary permissions are required under the EIA Notification and other environmental laws for this project and (viii) if any damage has been caused to the water body, then the committee is directed to assess the nature of damage caused and assess the environmental compensation for damage caused, apart from assessing the amount required for restoration of water channel to its original position.

17. The District Environmental Engineer, Tamil Nadu Pollution Control Board will be the nodal officer for co-ordination and also for providing necessary logistics for this purpose.

23. For appearance of parties, filing independent response and also for consideration of report, post on 26.11.2021.”

6. I respectfully submit that, the Environmental Impact Assessment Notification, 2006 mandates prior Environmental Clearance (EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule. The Category 'A' projects shall obtain EC from the Central Government and Category 'B' projects from the concerned State Level Environment Impact Assessment Authority (SEIAA)/Union Territory Environment Impact Assessment Authority (UTEIAA). The proposal will be placed before the State Expert Appraisal Committee (SEAC) for screening, scoping and appraisal. Based on the recommendations of SEAC, the proposal is placed before the State Environment Impact Assessment Authority (SEIAA) for the consideration of issue of Environmental Clearance. After detailed discussion and based on the documents furnished, Environmental Clearance is issued by the Authority.
7. I respectfully submit that, as per EIA Notification, under Project / Activity - 7(C) - Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes requires prior Environmental Clearance as follows


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Category 'A' Project to be appraised in MoEF&CC-

- i. If at least one industry in the proposed industrial estate falls under the Category "A", entire industrial area shall be treated as Category A, irrespective of the area.
- ii. Industrial estates with area greater than >500 ha and housing at least one Category B industry.

Category 'B' Project to be appraised in SEIAA-

- i) Industrial estates housing at least one Category B industry and area <500 ha.
- ii) Industrial estates of area > 500 ha and not housing any industry belonging to Category A or B.

As per EIA Notification 2006, amended dated 01.12.2009 states the following:

- 1) Industrial Estate of area below 500 ha and not housing any industry of Category 'A' or 'B' does not require clearance.
- 2) If the area is less than 500 ha. But contains building and construction projects > 20,000 Sq.mts. and or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be.

8. I respectfully submit that the project proponent TN-SIDCO has not filed application seeking prior Environmental Clearance to SEIAA -TN. However, if the project proponent apply for the Environment Clearance under EIA Notification, 2006 as amended. The proposal will be placed before the State Expert Appraisal Committee (SEAC) for screening, scoping and appraisal. Based on the recommendations of SEAC, the proposal is placed before the State Environment Impact Assessment Authority (SEIAA) for the consideration of issue of Environmental Clearance. After detailed discussion and based on the documents furnished, Environmental Clearance is issued by the Authority. In this regards, at this juncture, the requirement of prior Environmental Clearance could not be ascertained.
9. I respectfully submit that, from the inspection report of the joint committee, it was noted that


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