

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE
BENCH, CHENNAI**

ORIGINAL APPLICATION NO. 224 of 2021

IN THE MATTER OF: -

Meenava thanthai

.... Applicant

Versus

State of Tamilnadu and Ors.

.... Respondent

**ADDITIONAL COUNTER AFFIDAVIT FILED ON BEHALF OF STATE
LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA)**



Filed by:
G.M. SYED NURULLAH SHERIFF
Senior Standing Counsel
MoEF&Cc.
Mob. No. 9444015330
Counsel for Respondent no.2

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
ORIGINAL APPLICATION NO.224 of 2021**

Meenava Thanthai K.R. Selvaraj Kumar

Meenavar Nala Sangam
Registered under section 10 of the Tamil Nadu
Societies Act in Sl.No.205 of 2015 dated 26.06.2015
Rep by its President
M.R. Thiyagarajan
S/o. (late) Rajalingam
Office at No/48, East Madha Chrch Street,
Royapuram, Chennai – 600013.

...Applicant

Versus

1. **State of Tamil Nadu**
Through Chief Secretary
Government of Tamil Nadu, Secretariat
Chennai – 600009
2. **State Environmental Impact
Assessment Authority Tamil Nadu**
Through the Chairman
3rd Floor, Panagal Maligai
No.1 Jeenis Road, Saidapet, Chennai-600 015
3. **Tamil Nadu State Coastal Zone Management Authority**
Through the Chairman
Ground Floor, Panagal Maligai
No.1 Jeenis Road, Saidapet, Chennai-600 015
4. **Tamil Nadu Pollution Control Board**
Through the Chairman
76th Mount Salai
Guindy, Chennai – 600032
5. **M.R.F. Limited**
Through the Director
Registered office
No.114, Greams Road, Chennai – 600006

Project Site

Survey No.175 (part) of Ernavoor Village
Survey No.6/1A1 of Thiruvottiur Village in
T.S.No.3,5/1A, 5/2A, Thiruvottiyur
Ambattur Taluk, Tiruvallur District
Tamil Nadu – 600019

... Respondent(s)

நாடுவாழ்வு
நாடுவாழ்வு
நாடுவாழ்வு
நாடுவாழ்வு


Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
Panagal Maligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

**ADDITIONAL COUNTER AFFIDAVIT FILED ON BEHALF OF SEIAA –
TAMILNADU, SECOND RESPONDENT**

I, Deepak S. Bilgi, I.F.S., working as Member Secretary, State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN) having office at Third Floor, Panagal Maaligai, Saidapet, Chennai – 600015 do hereby solemnly affirm and sincerely state as follows:

1. I am filing this additional counter affidavit on behalf of the Second Respondent/SEIAA – Tamil Nadu herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. At the outset, I deny the averments and allegations stated in this original application except those that are specifically admitted hereunder and put the applicant to strict proof of the same.
3. I respectfully submit that; the project proponent M/s. MRF Limited, Thiruvallur District has applied through online vide SIA/TN/NCP/60757/2016 dated 30.11.2016 and submitted their hard copy on 30.01.2017 to State Level Environment Impact Assessment Authority - Tamil Nadu for seeking Environmental Clearance for the proposed construction of warehouse for storing raw materials and finished goods with a total built- up area of 29,675.94 Sq.m at S.No. 175 (part) of Ernavoor Village, S.No.6/1A1 of Thiruvottiyur Village in T.S. No. 3, 5/1A, 5/2A of Tiruvottiyur, Ambattur Taluk, Thiruvallur District, Tamil Nadu under Category "B2" and Schedule No. 8(a) - Building and construction.
4. I respectfully submit that, as per the Notification by Ministry of Environment, Forests and Climate change vide its S.O. 3252(E) dated 22.12.2014, *has taken out industrial shed, school, college, hostel for educational institution from the requirement of prior Environmental Clearance (EC) under EIA Notification, 2006, but such buildings shall ensure sustainable environment management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly as bricks.*


Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maaligai, No.1, Jeanis Road,
 Saidapet, Chennai - 15

5. I respectfully submit that, as per the clarification issued by Ministry of Environment, Forests and Climate change vide its notification dated 9.06.2015, it is stated that, *The word 'industrial shed' implies building (whether RCC or otherwise) which is being used for housing plant and machinery of industrial units and shall include godowns and buildings connected with production related and other associated activities of the units in the same premises*".
6. I respectfully submit that; as per O.M. dated 04.10.2022 issued by Ministry of Environment, Forests and Climate change, Government of India, it is stated that,
"It is further mentioned that if the size of the industrial shed is \geq 1,50,000 sq. mtrs. of built-up area it shall be required to obtain prior EC under item 8(b) of schedule to the EIA Notification, 2006, irrespective of type of industry/utility it houses."
7. I respectfully submit that, as per the EIA Notification, 2006 the project proponents has to file a 6 months compliance report to the MoEF&CC, SEIAA and TNPCB for all those projects which has obtained Environmental Clearance from SEIAA-TN. Further in case of any non-compliance of the conditions issued in the EC, action will be initiated against the unit under the Environmental Protection Act, 1986.
8. I respectfully submit that, with regard to Environmental Clearance issued cases, the following General Condition are incorporated;
- i. Failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of the Environment (Protection) Act, 1986.*
 - ii. The Environmental Clearance is issued based on the documents furnished by the project proponent. In case any documents found to be incorrect/not in order at a later date the Environmental Clearance issued to the project will be deemed to be revoked/cancelled.*
9. I respectfully submit that, as per O.M. dated 01.09.2022 issued by Ministry of Environment, Forests and Climate change, it is stated as follows,


Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Mailgai, No.1, Jeemie Road,
Saidapet, Chennai - 15

- “2. In view of receipt of other such representations seeking clarification on applicability of EIA Notification 2006 for undertaking various R&D activities, matter has been examined afresh in light of the earlier recommendations of the Expert Committee as mentioned above. Accordingly, it is hereby clarified that R&D activities on laboratory scale/pilot scale carried out for the projects or activities which are listed in the schedule to the EIA Notification 2006, as amended and where no commercial production is involved, are exempted from the requirements of prior EC, provided such activities are clearly mentioned as R&D activities in the consents obtained from the respective State Pollution Control Boards.*
- 3. In case an R&D facility is setup within the premises of an activity/ project that attracts the provisions of EIA Notification and has been granted EC, the R&D activity shall not cause any change in product mix or increase in the production capacity or the pollution load from that which is mentioned in the EC granted to the project. The consents obtained from the respective State Pollution Control Boards for the project/ activity requiring prior EC shall also clearly indicate or mention the details of R&D facility in the premises where the said R&D facility is being setup.”*

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to consider the above said facts and pass such order or orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

Solemnly affirmed at Chennai
On this 15th day of March 2023
and signed his name in my presence.

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**SECOND RESPONDENT
MEMBER SECRETARY**

Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeeris Road,
Saidapet, Chennai - 15


BEFORE ME
Attested Officer

Assistant Environmental Engineer
State Level Environment Impact Assessment Authority-Tamilnadu
Third Floor, Panagal Maligai
Saidapet, Chennai - 600 015

F. No. 22-17/2019-IA.III [121076]

Government of India

Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 1st September, 2022

OFFICE MEMORANDUM

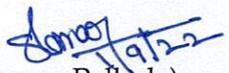
Subject: Clarification on the applicability of EIA Notification, 2006, for Research and Development (R&D) Activities - reg.

The Ministry has been receiving requests for clarifying the applicability of EIA Notification, 2006, for undertaking various Research and Development (R&D) activities. Some of these matters were referred on case to case basis to the Expert Committee constituted to address policy issues, for taking a considered view on the same.

2. In view of receipt of other such representations seeking clarification on applicability of EIA Notification 2006 for undertaking various R&D activities, matter has been examined afresh in light of the earlier recommendations of the Expert Committee as mentioned above. Accordingly, it is hereby clarified that R&D activities on laboratory scale/pilot scale carried out for the projects or activities which are listed in the schedule to the EIA Notification 2006, as amended and where no commercial production is involved, are exempted from the requirements of prior EC, provided such activities are clearly mentioned as R&D activities in the consents obtained from the respective State Pollution Control Boards.

3. In case an R&D facility is setup within the premises of an activity/ project that attracts the provisions of EIA Notification and has been granted EC, the R&D activity shall not cause any change in product mix or increase in the production capacity or the pollution load from that which is mentioned in the EC granted to the project. The consents obtained from the respective State Pollution Control Boards for the project/ activity requiring prior EC shall also clearly indicate or mention the details of R&D facility in the premises where the said R&D facility is being setup.

4. This is issued with the approval of the Competent Authority.


(Sharath Kumar Pallerla)
Scientist- G

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairpersons/Member Secretaries of all EACs

3. Chairpersons/Member Secretaries of all SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, MoEF&CC/Guard file

F.No. 19-131/2019-IA-III [E 128798]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
3rd Floor, Vayu Wing, Jor Bagh Road
Ali Ganj, New Delhi-3

Dated: 4th October, 2022

OFFICE MEMORANDUM

Subject: Clarification regarding Gazette Notification No. S.O. 3252 (E) dated 22.12.2014 on applicability of Environmental Clearance - regarding.

Ministry of Environment, Forest and Climate Change vide Notification S.O. 3252 (E) dated 22/12/2014, amended the item 8 (a) of schedule to the EIA Notification 2006 to state that industrial shed, school, college, hostel for educational institution shall be exempted from requirement of Environmental Clearance (EC) but shall ensure sustainable environmental management, solid and liquid waste management, rainwater harvesting and may use recycled materials such as fly ash bricks.

2. Subsequently, the Ministry had clarified vide Office Memorandum (O.M) dated 05/03/2015 stating that "The word '*Industrial Shed*' implies building (whether RCC or otherwise) which is being used for housing plant and machinery of industrial units and shall include Godowns and buildings connected with production related and other associated activities of the unit in the same premise". Further, Ministry issued an OM dated 9/06/2015 clarifying that Notification dated 22/12/2014 provides exemption to buildings of educational institutions including universities from obtaining prior EC under the provisions of EIA Notification 2006 subject to sustainable environmental management and provided a set of guidelines to be followed for building projects to ensure sustainable environmental management.

3. In addition to the above, the Ministry vide letter dated 06/09/2016 clarified that the principle is of a dominant purpose. If an Industry is not covered under the EIA Notification 2006 for obtaining prior EC, it shall not be required to obtain prior EC under

item 8 of the schedule to the EIA Notification, 2006 if the size of the Industrial shed under which that industry is proposed to be housed is more than 20,000 sq. mtrs of built up area.

4. Thereafter, the Ministry issued an OM on 19/05/2022 stating that exemption provided for educational institutions vide Ministry's Notification No. S.O. 3252 (E) dated 22/12/2014 shall be applicable to all educational institutions covered under the definition of educational institution as mentioned in Noise Pollution (Regulation and Control) Rules, 2000. However, these educational institutions shall strictly implement the guidelines issued vide OM dated 9/06/2015 to ensure sustainable environmental management.

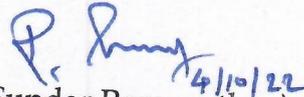
5. The Ministry is now in receipt of representations to exempt warehouses for storage of raw materials and finished goods of all consumption and industrial products including but not limited to industrial and factory-made products (except hazardous materials) from the requirement of prior EC along with industrial sheds, schools / colleges/ hostels for educational institutions as per the provisions contained in item 8(a) of schedule to the EIA Notification, 2006.

6. The matter has been examined in consultation with the concerned sector appraising Infrastructure Projects. Based on the inputs provided by the concerned sector of the IA Division, and further deliberation, the Ministry deems it necessary to clarify that, the word *Industrial Shed* mentioned in the Notification S.O. 3252 (E) dated 22/12/2014 implies buildings/ warehouses/ sheds (whether RCC or otherwise) which are used for housing machinery of industrial units and/or storage of raw materials and finished goods and industrial products including but not limited to industrial and factory-made products, irrespective of the location and proximity of the Industrial Shed *vis-a-vis* any Industry. These Industrial Sheds shall strictly implement the guidelines issued vide OM dated 9/06/2015 to ensure sustainable environmental management. However, if any of the activities/processes covered in the schedule to the EIA Notification 2006 are housed in the said Industrial Shed, then the same shall be required to obtain prior EC under the provisions of EIA Notification, 2006.

7. It is further mentioned that if the size of the industrial shed is $\geq 1,50,000$ sq.mtrs of built up area it shall be required to obtain prior EC under item 8(b) of schedule to the EIA Notification 2006, irrespective of the type of industry/ utility it houses.

8. In view of the existence of the interim Order issued by High Court of Kerala at Ernakulum [in writ petition W.P. (C) No. 3097 of 2016 (S)] dated 17/09/2020 and 23/11/2020 against the amendment to the EIA Notification, 2006 dated 22/12/2014, this clarification, within the territorial jurisdiction of High Court of Kerala, is subject to the outcome of the said court case.

9. This clarification is issued in supersession of OM no.19-2/2014-IA.III dated 05/03/2015 and with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist E

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the Officers of IA Division

Copy for information to:

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