

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

**ORIGINAL APPLICATION NO. 24 of 2023**

**IN THE MATTER OF: -**

**Kosgi Venkataiah, Telangana  
and Anr.**

**.... Applicant**

**Versus**

**The Secretary, MOEF & CC,  
New Delhi & Ors.**

**.... Respondent**

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE MINISTRY OF  
ENVIRONMENT FOREST AND CLIMATE CHANGE**



Filed by:  
**G.M. SYED NURULLAH SHERIFF**  
**Senior Standing Counsel**  
**MoEF&Cc.**  
**Mob. No. 9444015330**  
**Counsel for Respondent no.1**

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

IN

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**Vs.**

Union of India & Ors.

...Respondents

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**G.M. Syed Nurullah Sheriff**

**Advocate, MoEFCC**

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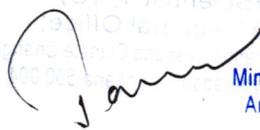
...Respondents

**Counter Affidavit On Behalf of Ministry of Environment,  
Forest and Climate Change (Respondent No.1)**

**IT IS MOST RESPECTFULLY SHOWETH:**

I Tarun Kathula S/o Shyamala Rao, aged 45 years, resident of Hyderabad, do hereby solemnly affirm and state as under :-

1. That I am working as Director/Scientist 'F'
2. That I am fully conversant with the facts and circumstances of the case from records maintained in the office. I have read and understood the contents of the petition thereof and as such authorized and competent to swear the present affidavit.
3. I submit that I deny all the allegations/averments mentioned in the present Application filed by the Applicant except those that are specifically admitted in the Counter Affidavit filed.
4. That the Applicant herein has alleged environmental violations such as, (a) lack of Environment Clearance for the Telangana State Industrial Infrastructure Corporation Special Economic Zone having highly polluting industrial Units, (b) inaction of the Official Respondents despite the Units are found to be repeated violators, (c) non-initiation of Persecution, closer proceedings under section 37 (1) of Air Act against the Units for causing irreparable loss to the health, agriculture, fishing, soil, water



**Tarun Kathula**  
Director/Scientist 'F' (C)  
Integrated Regional Office,  
Ministry of Environment Forest and Climate Change  
Aranya Bhavan, Hyderabad. Telangana-500 004.

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body, livestock etc. and (d) non-payment of compensation to the victims of pollution by the District Collector as per Rule 35 to 37 of NGT Rules, 2011.

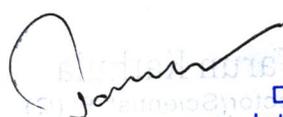
5. That in this regard, the answering Respondent respectfully submits that under clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (here inafter referred to as the "1986 Act"), the Central Government has the power to make rules for carrying out the purposes of the said Act. While exercising the powers conferred by the 1986 Act, the Ministry had issued the Environment Impact Assessment (EIA) Notification vide S.O.60 (E) dated 27<sup>th</sup> January, 1994 mandating 32 categories of projects listed in Schedule- I to obtain prior environmental clearance based on the investment criteria (originally it was Rs 50 crores, which was enhanced to Rs 100 crores). It is further submitted that the Environmental Impact Assessment (EIA) was made a statutory requirement for certain category of construction and development activities through amendment dated 07.07.2004 in the EIA Notification, 1994.
6. It is humbly submitted that under the 1986 Act read with Environment (Protection) Rules, 1986, the Ministry has issued a notification number S.O. 1533(E) dated 14.09.2006 (hereinafter referred to as the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27<sup>th</sup> January, 1994.
7. It is further submitted that under the provisions of the EIA Notification, 2006, all new projects or activities listed in the Schedule to the EIA Notification, 2006 or the expansion/modernization of existing projects/activities listed in the said Schedule with addition of capacity beyond the limits specified for the concerned sector, i.e., projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization or any change in product mix in an existing

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Integrated Regional Office  
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manufacturing unit included in Schedule beyond the specified range, shall be undertaken in any part of India, as applicable, only after receipt of the prior environment clearance from the Central Government or by the State Level Environment Impact Assessment Authority ("SEIAA"), as the case may be. It is submitted that the Central Government under sub-section (3) of Section 3 of the 1986 Act in accordance with the procedure specified in the EIA Notification, 2006, duly constitutes SEIAA in the States.

8. It is most respectfully submitted that under the Schedule to the EIA Notification, 2006 relating to the list of activities requiring prior Environmental Clearance, the Special Economic Zones (SEZs) are covered under entry 7 (c) of the Schedule. The relevant portion of the Schedule is stated as follows:-

(1)	Project or Activity (2)	Category with threshold limit		Conditions if any (5)
		A (3)	B (4)	
7(c)	Industrial estates/ parks/complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	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.  Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	Industrial estates housing at least one Category B industry and area <500 ha.  Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	General as well as specific conditions shall apply.  Note:  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. mtr. 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.



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Director/Scientist 'F' (C)

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9. That as per the EIA Notification, 2006, the said Special Economic Zone shall fall under Category 'A' project if at least one industry in the industrial estate falls under the Category A, irrespective of the area or if the industrial estate is having an area greater than 500 ha. and housing at least one Category B industry. However, as per the conditions mentioned in 7(c), the SEZ does not require Environment Clearance if the area is below 500 ha. and not housing any industry of category 'A' or 'B'. Further, if the area is less than 500 ha. but contains building and construction projects greater than 20,000 sq. mtr. 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, relating to either building and construction projects or Townships and area development projects, respectively.
10. Therefore, if the SEZ in question fulfils the aforementioned criteria as per the Schedule, then the provisions of the EIA Notification, 2006 shall be attracted.
11. It is further respectfully submitted that the Applicant, in his petition has stated that Respondents No. 7-14 are chemical pharmaceutical industries and Respondent No. 15 is a manufacturing company. Therefore, in that case, the industries shall attract entry 5(f) of the Schedule to the EIA Notification, 2006, which is stated below as follows:-

(1)	Project or Activity (2)	Category with threshold limit		Conditions if any (5)
		A (3)	B (4)	
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers;	Located outside the notified industrial area/ estate except small units as defined in column (5)	(i) Located in a notified industrial area/ estate.  (ii) Small units as defined in the	General as well as specific conditions shall apply.  Small units: with water consumption <25 m <sup>3</sup> /day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage



Taren Kathula  
 Director/Scientist 'F' (C)  
 Integrated Regional Office,  
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 Aranya Bhavan, Hyderabad, Telangana-500 004.

	basic organic chemicals, other synthetic organic chemicals and chemical intermediates)		column (5)	and Import of Hazardous Chemical Rules, 1989.  All proposals for projects or activities in respect of Active Pharmaceutical Ingredients (API), received up to the 30th March 2021, shall be appraised, as Category 'B2' projects, provided that any subsequent amendment or expansion or change in product mix, after the 30th March 2021, shall be considered as per the provisions in force at that time.".
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12. Therefore, if the SEZ in question including the Respondent industries fulfill the aforementioned criteria as per entry 7(c) and 5 (f) of the Schedule, then the provisions of the EIA Notification, 2006 shall be attracted.

13. It is respectfully submitted that as per the records maintained in the office, the answering Respondent has not received any application for the grant of Terms of Reference in accordance with the EIA Notification, 2006 for setting up of the TSIIC Special Economic Zone in the district Mahabub Nagar, State of Telanagana.

14. Therefore, in view of the above, it is prayed that this Hon'ble Tribunal may take on record and consider above submissions while passing an appropriate order, which the answering respondent shall duly comply with and thus render justice.

15. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.



DEPONENT

**Tarun Kathula**  
Director/Scientist 'F' (C)  
Integrated Regional Office,  
Ministry of Environment Forest and Climate Change  
Aranya Bhavan, Hyderabad, Telangana-500 004.

**VERIFICATION**

I, the aforementioned Deponent do hereby declare on this 16<sup>th</sup> day of May ,2023 at Hyderabad that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.



DEPONENT

**Tarun Kathula**  
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Integrated Regional Office,  
Ministry of Environment Forest and Climate Change  
Aranya Bhavan, Hyderabad, Telangana-500 004.

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