

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Application No. 243 of 2021

P.Prakash,
S/o Ponnurangam,
No.16, Muthaiya Gounder Street,
Kalitheerthalkuppam,
Madagadipet (Post),
Puducherry-605107.

- Applicant

Vs.

1. The Chairman,
National Highways Authority of India,
C 5&6, Sector-10, Dwarka,
New Delhi-110 075.

2. The Chief Engineer,
Central office, PWD,
34, Lal Bahadur sastri St,
Puducherry-605 001.


3. The Member Secretary,
No.15, 3rd Cross st,
Mariamman Nagar,
Karamani kuppam,
Puducherry-605 004.

4. The Director, Department of Science,
Technology and Environment,
III Floor, PHB Building Anna Nagar,
Puducherry-605 005.

- Respondents

AFFIDAVIT FILED ON BEHALF OF 1ST RESPONDENT

I, S.Sakthivel S/o K. Shanmugam, Project Director of National Highways Authority of India, having office at Project Implementation Unit Puducherry, having office at Project implementation Unit – Puducherry, No: 28 & 29, 1st Cross, Ganapathy Nagar, Arumparthapuram, Puducherry - 605 110 solemnly affirms and sincerely states as follows:


Dy. General Manager (T) &
Project Director, NHAI
PIU, Puducherry

1. I represent the interest of 1st Respondent and in-charge of the execution of construction of construction of NH 45A between Villupuram – Puducherry – Nagapattiam. I am discharging duties as Project Director, The National Highway Authority of India, having office at Project Implementation Unit Puducherry, No: 28 & 29, 1st Cross, Ganapathy Nagar, Arumparthapuram, Puducherry - 605 110 and as such I am well acquainted with the facts of the case. I am filing this Affidavit based on the records available at my office.


2. I humbly submit that the work of construction of NH 45A was originally handled by Project Implementation Unit (PIU), Villupuram. Presently this Project has been transferred to PIU, Puducherry. Hence, I file this Affidavit.

3. In June 2022, this 1st Respondent filed a Reply Affidavit praying for approval of scheme as per para 5 of the Affidavit, which is reproduced below:

“ It is submitted that NHAI has modified the cross section of service road to avoid / reduce the impact over the bund of pond & tank and they were communicated to the District Collector, Puducherry vide this office letter no 649 dated 04.04.2022. The Modifications suggested by NHAI are submitted hereunder;

a. Pond at Madagadipet:

- i. *The Tank falls under the project chainage 20+470 (LHS). The length of the tank along the project alignment is 43.5m and the area of the tank is 1522.5 m² (bund to bund) and the same at bottom level is around 701.50 m². The width of tank bund including toe is 6.50m.*
- ii. *Due to the formation of service road (modified design), 4m width is required from the edge of tank bund towards its toe and the impact area is 174 m². (11.40% of the total area of 1522.5M2).*
- iii. *NHAI has proposed to acquire the land besides the tank with the support of Puducherry government to maintain the equivalent / same existing water spread area.*


Dy. General Manager (T) &
Project Director, NHAI

- iv. Further, it is informed that this water pond is surrounded by NH45A on south side, village road on west side, vacant land for 5m on north side and burial ground for length of 15m on east side.
 - v. It is pertinent to mention that after the intervention of NGT & report submitted by the Puducherry Govt, NHAI has modified the design and reduced the width of service road from 7m to 5.5m width to explore zero impact over water bodies. However, the impact cannot be made zero and at present the impact is only 11.40%. It is suggested that, the impact area of 174m² may be compensated by acquiring equal extent on northern and eastern side of the pond to maintain the same water spread area of 1522.50m².
- b. Tank at Thirubvanai:**
- i. The tank falls under the project chainage 21+450 (LHS). The length of the tank along the project alignment is 320m and the water storage area is not affected due to formation of service road (modified design), since the service road will be exactly on the bund which is 8m width.
 - ii. It is pertinent to mention that after the intervention of NGT & report submitted by the Puducherry Govt, NHAI has modified the design and reduced the width of service road from 7m to 5.5m width to explore zero impact over water bodies.
 - iii. Now, the proposed service road impacts only the tank bund, not the water storage area. Due to formation of service road over the tank bund, the bund of the tank will be strengthened.
 - iv. However, felling of 550 palm trees which is in the tank bund cannot be avoided and the planting of trees in 1:10 ratio will be carried out by NHAI after formation of road.
 - v. In case, if the alignment is shifted towards right side to avoid the impact over tank as reported by the PWD, then 173 nos. of buildings (residential building, shops, school etc) is getting affected and the same is to be acquired for formation of road by initiating new land acquisition proceedings.
 - vi. An additional land for 8m width has to be initiated on opposite of the tank bund. The entire buildings in the right side of Thirubuvanai village is to be acquired and removed for the formation of road which may



impose much more hardship to the public and leads to huge financial implication as well.

c. Pond at Thiruvandarkovil:

- i. *The tank falls under the project chainage 22+800 (LHS). The length of the tank along the project alignment is 74m and the area of the tank is 3034 m² (bund to bund) and the same at bottom level is 1470 m². The pond is surrounded by NH45A on southern side, govt land on western and northern side and private lands on eastern side. The width of bund including toe is 7.80m.*
- ii. *Due to the formation of service road (modified design), 3.5m width is required from the edge of tank bund towards its toe and the impact area is 259 m² (8.50%).*
- iii. *NHAI has proposed to acquire the land besides the tank with the assistance of Puducherry government to maintain the water storage area.*
- iv. *It is pertinent to mention that after the intervention of this Hon'ble Tribunal & report submitted by the Puducherry Govt, NHAI has modified the cross-section design and reduced the width of service road from 7m to 5.5m width to explore zero impact over water bodies. However, the impact cannot be made zero and at present the impact is 8.50%.*
- v. *An additional land for an extent of 259m² may be acquired from the available government land on western and northern side to maintain the same water spread area of 3034m²"*

4. Government of Puducherry vide letter dated 19.05.2022 of Executive Engineer has given the following consent on behalf of Chief Engineer, PWD, Puducherry.

a. In respect of Ponds in Madagadipet and Thiruvandarkoil:

NHAI consented to the mitigation measures such as to compensate the reduction in water spread area by acquiring patta lands & G.P lands as accepted during the meeting with District Collector.

Dy. General Manager (T) e.

- b. **In respect of Tank at Thirubuvanai (Km.21+450 LHS):** The VUP will be completed without the service road proposed on tank bund, regulating both ways traffic on the RHS service road, **without neither cutting palm trees on bund nor attracting additional LA**

5. I submit that in line with the consent of Government of Puducherry, the prayer is modified deleting requirement of cutting of trees and also compensate the reduction in water spread area by acquiring patta lands & G.P lands

6. I pray this Honourable tribunal to kindly pass orders permitting the mitigation measures and modifications proposed by NHAI and consented by Government of Puducherry

i) To acquire additional land besides the tank with the support of Puducherry government to maintain the equivalent / same existing water spread area in respect of Ponds at Madagadipet and Thiruvandarkovil and

b. Not to fell the 550 palm trees over tank bund and also not acquiring additional land in RHS to shift the alignment and instead delete the service road over tank bund from the scope of work at Thirubuvanai and regulate both ways traffic on the RHS service road,

Hence, the Hon'ble Tribunal may also be pleased to pass appropriate orders permitting the NHAI to carry out the Project or orders as it may deem fit and proper in the facts and circumstances of the case and thus render justice

Solemnly affirmed that the above facts are
True to the best of my knowledge and belief
And signed at Chennai on this 31st day of
August 2022


**Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry**

1st RESPONDENT

Before me

Advocate

*J. K. S. /
Enno 5/10/22 /
A.S.I., Add. Law Chambers
High Court
Chennai*

I, S.Sakthivel S/o K. Shanmugam, Project Director of National Highways Authority of India, Project Implementation Unit, Puducherry do hereby verify that what is stated above in paras is true to the best of my knowledge and belief, based on official records.

Verified at Chennai on this the 31st day of August 2022

RESPONDENT



**Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry**

GOVERNMENT OF PUDUCHERRY
PUBLIC WORKS DEPARTMENT
PUDUCHERRY

No.2032/PW/ID/EEI/DB/JE2/NHAI/2022-23

868

dt. 19.05.2022.

To
The Project Director,
DGM (Tech) & Project Director,
Project Implementation Unit,
Puducherry.

NHAI-PIU, PUDUCHERRY	
DATE	21 MAY 2022
DIARY No	4826
DGM (T) & PD	
Mgr. (Tech)	
Dy.Mgr.(T)	
Site Eng.	
ACCOUNTANT	
LAO	

Sir,

Sub : PW – ID – Four Laning of Section NH-45A Villupuram – Puducherry– Cuddalore – Nagapattinam– Litigation against Handing Over of Government Irrigation Lands in favour of NHAI – Madagadipet & Thiruvandarkoil villages, Villianur Taluk, Puducherry District – Modified alignment of proposed road -Issuing consent – Regarding.

Ref : i) NHAI, PIU – Puducherry letter No.11011/NH-45A/11/
Vol-2/2011/PIU-PDY/0902, dt.11.05.2022.
ii) No.690A/PW/SE-II/392, dt.29.04.2022.

With reference to the subject cited above, consent for the mitigation measures for the two ponds at Madagadipet (Under Project Chainage Km.20+470 LHS) and Thiruvandarkoil (Under Project Chainage Km22+800 LHS) and for shifting of alignment for Thirubuvanai Tank (Under Project chainage Km.21+450 LHS) as furnished by you which is communicated hereunder :

In respect of Ponds in Madagadipet (Km.20+470 LHS) and Thiruvandar Koil (Km.22+800 LHS)

NHAI consented to the mitigation measures such as to compensate the reduction in water spread area by acquiring patta lands & G.P lands as accepted during the meeting with District Collector.

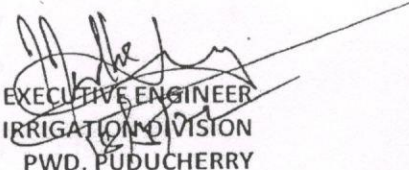
.....2/-

In respect of Tank at Thirubuvanai (Km.21+450 LHS).

Option 2 that the VUP will be completed without the service road proposed on tank bund, regulating both ways traffic on the RHS service road only which is already reduced to 5.50m width, without neither cutting palm trees on bund nor attracting additional LA.

In addition to the above, the remaining works assigned by the NHAI has to be carried out according to the minutes of the meeting communicated in reference (ii).

// By order of the Chief Engineer//


**EXECUTIVE ENGINEER
IRRIGATION DIVISION
PWD, PUDUCHERRY**

BEFORE THE NATIONAL GREEN
TRIBUNAL (SZ) CHENNAI

Application No. 243 of 2021

P.Prakash ... Applicant

Vs.

The Chairman
National Highways Authority of India
New Delhi.
and 3 others. ... Respondents

Additional Affidavit filed on behalf of 1st
Respondent

R. Srinivasan
For H. P. Prasad
1/9/2022

Mrs. S.R. Sumathy
Counsel for 1st Respondent (Enrl no
835/87)
9443326242
sumy85@yahoo.com

Re: A no 243 of 2021 - Prakash vs NHAI, Affidavit

From: SAKTHI MANIKANDAN (sakthiadv@gmail.com)

To: sumy85@yahoo.com

Date: Thursday, 1 September, 2022 at 04:02 pm IST

Madam,

Received the affidavit.

Thanks & Regards

Sakthi
Advocate for applicant

On Thu, 1 Sep, 2022, 3:53 pm S.R. Sumathy Mohan, <sumy85@yahoo.com> wrote:

Sir,

Greetings.

I am forwarding copy of Affidavit filed by NHAI in the above case.

Kindly send acknowledgement mail

With Regards,

S.R. Sumathy,
Advocate
9443326242