

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
APPEAL No.28 of 2020**

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 Chruch Street,
Royapuram, Chennai – 600013.

...Appellant

Versus

1. Tamil Nadu State Environmental
Impact Assessment Authority
Through the Member Secretary
3rd Floor, Panagal Maligai
No.1 Jeenis Road, Saidapet, Chennai-600 015
Tamil Nadu
2. Department of Fisheries Tamil Nadu
Through the Assistant Director
Fishing Harbor Project Division
No.11, Thiruvottriyur N.H. Road,
Near New Bustand, Ponneri
Tiruvallur, Tamil Nadu – 601204
3. State of Tamil Nadu
Through Chief Secretary
Government of Tamil Nadu, Secretariat
Chennai – 600009
4. Tamil Nadu Pollution Control Board
Through the Member Secretary
76th Mount Salai
Guindy, Chennai – 600032

... Respondents

COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT

I, Thiru.K.V.Giridhar, I.F.S., Member Secretary, State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN), Chennai - 600 015 do hereby solemnly affirm and sincerely state as follows:-



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

1. I respectfully submit that I am the 1st 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.
2. 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.
3. It is respectfully submitted that the project proponent M/s. Fisheries Department, Fishing Harbour Project Division, Chennai has applied to State Level Environment Impact Assessment Authority –Tamil Nadu (SEIAA-TN) for issuance of Terms of Reference (ToR) for the proposed construction of TUNA Fishing Harbour at S.F.No.7/4, 39, 40, 41, 42 &49, Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District, Tamil Nadu.
4. It is respectfully submitted that the project proposal was placed in the 100th meeting of the State Expert Appraisal Committee (SEAC) held on 20.12.2017 & 21.12.2017. Accordingly, the SEAC recommended ToR for preparation of Environment Impact Assessment (EIA) report along with Public Hearing.
5. It is respectfully submitted that the project proposal was placed in the 266th meeting of the SEIAA-TN held on 22.01.2018. Accordingly, the SEIAA recommended ToR for preparation of EIA report along with Public Hearing in addition to certain conditions vide this office Lr.No.SEIAA-TN-F.No.6440/SEAC-C/7(e)/ToR-301/2017 dated 22.01.2018.
6. It is respectfully submitted that project proponent M/s. Fisheries Department, Fishing Harbour Project Division, Chennai has applied to SEIAA-TN on 27.09.2019 through online in the PARIVESH portal vide SIA/TN/MIS/43388/2015, for issuance of Environmental Clearance (EC) for the proposed construction of TUNA Fishing Harbour with net fish handling capacity of 69,000 TPA at S.F.No.7/4,39,40,41,42 & 49, Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District, Tamil Nadu and submitted the hard copy of the EIA report along with Public hearing to SEIAA-TN on 13.12.2019.
7. It is respectfully submitted that, the proposal was placed in the 141st SEAC meeting held on 16.12.2019, based on the appraisal the committee has requested certain additional details to the project proponent. The project proponent has furnished the reply to SEIAA-TN on 17.02.2020.



8. It is respectfully submitted that, meantime, M/s.Meenava Thanthai K.R.Selvaraj Kumar, Meenavar Nala Sangam has filed Original Application No 28 of 2020 against the Chief Secretary, Government of Tamil Nadu and others before the Hon'ble National Green Tribunal, Southern Zone, Chennai. In this connection, Hon'ble National Green Tribunal, Southern Zone, Chennai has passed order dated 07.02.2020 has stated that

"...9. In order to ascertain the present status we feel it appropriate to appoint a Joint Committee comprising of District Collector, Thiruvallur, The Tamil Nadu State Pollution Control Board and State Environment Impact Assessment Authority, and Senior Officer from the Tamil Nadu State Coastal Zone Management Authority to inspect the area in question and submit the factual and action taken report including any violations found before this Tribunal within a period of one month.

....13. State Environment Impact Assessment Authority (SEIAA) will act as the nodal agency for co-ordination and also for providing necessary logistics for this purpose.

14. The Registry is directed to communicate this order to the concerned officials by e-mail. The petitioner is also directed to take steps to serve the order on the sixth respondent immediately.

15. The committee shall submit the report to this Tribunal through e-mail @ ngtszfilng@gmail.com within that time.

16. For appearance and consideration of the report post on 26.03.2020."

9. It is respectfully submitted that, as per the direction of Hon'ble Tribunal, the joint committee was inspected the project site of TUNA Fishing harbor, located at Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District on 17.03.2020 and the inspection report also filed before the Hon'ble Tribunal on 23.03.2020.

10. It is respectfully submitted that, the proposal was again placed in the 153rd SEAC meeting held on 04.06.2020, based on the presentation made by the project proponent and the documents furnished, the SEAC decided to recommend the proposal for grant of Environmental Clearance to SEIAA subject to conditions.

11. It is respectfully submitted that, the project proposal was placed in the 382nd SEIAA meeting held on 23.06.2020 *"After detailed discussion the Authority noted that there is a case pending in NGT (SZ) in OA.No.28 of 2020. The Authority decided to defer the subject till the disposal of the case and decided to request MS SEIAA to put up the agenda to Authority on disposal of the case."*

12. It is respectfully submitted that, the Hon'ble National Green Tribunal, Southern Zone, Chennai has passed an order dated 21.07.2020 in the O.A.No.28 of 2020(SZ) has pronounced that

"....11. On going through the report, we find that no environment compensation has been assessed, and whether any damage has been caused to the environment / coastal area has not been mentioned. So, we feel it appropriate to direct the committee to assess the environment compensation as well and the question as to whether it has to be awarded or not can be considered by this Tribunal after hearing both sides on that aspect later.

12. The other respondents who did not file statement are directed to file their response before the next hearing date.

13. The committee is directed to submit further report as directed within a period of one month from today to this Tribunal i.e, on or before 14.09.2020 through e-mail or by e-filing at ngtszfiling@gmail.com.

16. The SEIAA is directed to consider and pass appropriate orders in the pending application for Environmental Clearance said to have been filed by the State authorities in this case for the project in accordance with law.

...18. The Registry is directed to communicate this order to the SEIAA as well as the members of the committee by e-mail immediately so as to enable them to comply with the direction."

13. It is respectfully submitted that, the project proposal was placed in the 387th SEIAA meeting held on 05.08.2020. The Authority discussed in detailed and in view of the orders of Hon'ble NGT, SZ dated 21.07.2020 in O.A.No.28 of 2020 it was decided and issued Environmental Clearance vide this office Letter.No.SEIAA-TN/F.No.6440/EC/7(e)/75/2020 dated: 05.08.2020 subject to the conditions as recommended by SEAC and the following conditions in addition to the General Conditions. **"Condition No: 2. Environmental Clearance is issued subject to outcome of the Hon'ble NGT (SZ) order in O.A.No.28 of 2020.**

14. It is respectfully submitted that, as per the direction of Hon'ble Tribunal, the joint committee was once again inspected the project site of TUNA Fishing harbor, located at Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District on 04.09.2020 and the inspection report also filed before the Hon'ble Tribunal on 13.09.2020.



Member Secretary
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15. It is respectfully submitted that, the Hon'ble National Green Tribunal, Southern Zone, Chennai has passed an order dated 14.09.2020 in the O.A.No.28 of 2020(SZ) has pronounced that

"...15. Since, the committee members have mentioned that they don't have the expertise to assess the environmental damage and they wanted assistance of an expert agency, we feel that it is necessary to include an expert in remote sensing for the purpose of identifying the area prior to the activities and what is the nature and extent of the damage caused and also what is the amount required for restoring the same to its original position as these details will have to be taken into account by this Tribunal for proper disposal of this case.

16. So, for that purpose we include an expert from the Institute of Remote Sensing, Anna University, Chennai as additional Member in the committee so that, the committee can with the help of the expert collect data regarding the prior position of the area. Time series satellite data from July, 19 till date can be procured for appearing the appropriate period of commencement of construction and to what extent this has been done and the committee is directed to assess the environmental compensation based on the available data and submit the further report to this Tribunal.

...21. The committee is granted one month time for this purpose."

16. It is respectfully submitted that, as per the direction of Hon'ble Tribunal, the joint committee had inspected the project site of TUNA Fishing harbor, located at Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District on 16.10.2020 and the inspection report also filed before the Hon'ble Tribunal on 18.12.2020.

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 08th day of March, 2021
and signed his name in my presence.

Advocate : Chennai

Respondent No-I



Member Secretary

STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN

Panagal Maligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

Before me



Assistant Environmental Engineer

State Level Environment Impact Assessment Authority-Tamilnadu

Third Floor, Panagal Maligai
Saidapet, Chennai - 600 015