

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI
IN
ORIGINAL APPLICATION NO. 14 OF 2022

IN THE MATTER OF:

Tumkunta Narsa Reddy,

... Applicant

Vs.

Union of India & Ors.

... Respondents

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M.Sumathi, Advocate
MoEF & CC

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**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO.1 MINISTRY
OF ENVIRONMENT FOREST AND CLIMATE CHANGE**

1. I, Tarun Kathula S/o Shri Shyamal Rao aged about 44 years, presently working as Scientist F in the Ministry of Environment, Forest & Climate Change (hereinafter referred to as "MoEFCC"), at Hyderabad do hereby, in my official capacity, solemnly affirm and state on oath as follows-
2. That I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit on behalf of the MoE&FCC on the basis of the official records maintained therein.
3. It is humbly submitted that the contents stated in the instant application are denied unless specifically admitted in this counter affidavit. I crave leave to file further additional affidavit, if and when required.
4. It is humbly submitted that the applicant has prayed before the Hon'ble Tribunal to direct Respondent No.1 (MoEF&CC) and Respondent No. 2 (State of Telangana) to initiate appropriate action against Respondent No. 4 (M/s Telangana State Industrial Infrastructure Corporation) for the commencement of Industrial Park without obtaining the Environmental

Clearance under Category 'A' of item 7(c) of the Schedule to the EIA

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Notification, 2006. The applicant has further prayed from the Hon'ble Tribunal to direct Respondent No. 4 and 6 (The Revenue Divisional Officer) to not proceed with the felling of trees and laying of roads in the impugned site without obtaining EC as well as consents under the provisions of the Acts.

5. It is respectfully submitted that under clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986, the Central Government has the power to make rules for carrying out the purposes of the said Act. Exercising the powers conferred by the Environment (Protection) Act, 1986, the Ministry had issued the Environment Impact Assessment (EIA) Notification vide S.O.60 (E) dated 27th 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 Environment (Protection) Act, 1986 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 27th January, 1994.

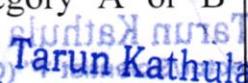
7. It is further submitted that under the provision of the EIA Notification, 2006, all new projects or activities listed in the Schedule to the EIA Notification, 2006 or the expansion or modernization of existing projects or activities listed in the Schedule to the EIA Notification, 2006 with addition of capacity beyond

the limits specified for the concerned sector, that is, projects on a

which cross the threshold limits given in the Schedule, after expansion or modernization or any change in product –mix in an existing 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 Environment Protection Act, 1986 in accordance with the procedure specified in the EIA Notification, 2006, duly constitutes SEIAA in the States.

8. It is humbly submitted that under the provisions of EIA Notification, 2006, Industrial Parks are covered under entry 7(c) of the Schedule to the EIA Notification, 2006. The entry 7(c) of the Schedule of EIA Notification, 2006 is provided as follows:

	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
		Physical Infrastructure including Environmental Services		
7(c)	Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones	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	Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area > 500 ha. and not housing any industry	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’


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zones (EPZ), Special Economic Zones (SEZs), biotech parks, leather complexes specified in item 7 (c) and common hazardous waste treatment, storage and disposal facilities (TSDFs) specified in item 7 (d), the appraisal shall be made at Central level even if located within 10 km.

Provided further that the requirement regarding distance of 5 km or 10 km, as the case may be, of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or the Union Territories sharing the common boundary in case the activity does not fall within 5 km or 10 km.

10. That it is submitted that specific condition as mentioned in EIA Notification, 2006 as amended is also applicable for such projects which mentions the following :-

“If any Industrial Estate/ Complex/ Export processing Zones/Special Economic Zones/Biotech Parks/ Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre-defined set of activities (not necessarily homogeneous), obtain prior environmental clearance, individual industries including proposed industrial housing within such estates/complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate)”.

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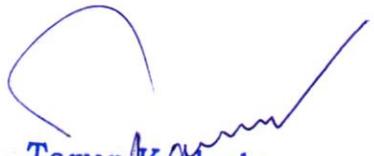
11. It is humbly submitted that the projects, which do not fall under the purview of the EIA Notification, 2006 and its amendments, also need to obtain clearances from various departments, such as:
- i. Tree cutting permission from appropriate authority for forest and non-forest area as per prevailing laws.
 - ii. Clearance for diversion of forest land under Forest Conservation Act, 1980.
12. That vide Order dated 31.03.2022 of this Hon'ble Bench, a Joint Committee was appointed to inspect the area in question and submit a factual as well as Action Taken Report to the Tribunal. Therefore, in compliance of the said Order, the Committee has submitted its report which is also received by the MoEF&CC. The report mentions that there is no impact on the surrounding water bodies nor any violation has been committed by M/s. Telangana State Industrial Infrastructure Corporation Limited (TSIIC) due to present scenario at the proposed park and hence, assessment of environmental compensation does not arise. The Committee, however, have submitted certain recommendations to the Industrial Park during the operational stage. Copy of the Report of the Joint Committee constituted vide Order dated 31.01.2022 is herewith attached and marked as **Annexure- I**.
13. Therefore, it is most humbly submitted that upon above submissions made by the answering Respondent, the present counter affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.


DEPONENT
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VERIFICATION

I, the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge as per the records of the answering respondents. No part of it is false and nothing material has been concealed there from.

Verified at Hyderabad on this 14th day of June, 2022.



Tarun Kathula
Director
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