

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE

APPEAL NO. 4 OF 2023 (SZ)

IN THE MATTER OF:

VASIPILLI NUKARAJU AND MYLAPALLY GIRISH,

VISAKHAPATNAM DISTRICT

ANDHRA PRADESH

... APPELLANTS

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 3

CENTRAL POLLUTION CONTROL BOARD (CPCB)

I, H. D. Varalaxmi, D/o Shri H.S. Devaiah, Hindu, aged 54 years, working as Scientist 'E' and Regional Director in the Regional Directorate – Chennai, Central Pollution Control Board, 2nd Floor, 77-A, Ambattur Industrial Estate, Chennai – 600 058, do hereby solemnly affirm and sincerely state as follows:

I submit that, I am presently working as Scientist 'E' & holding Charge of Regional Director (Chennai), Central Pollution Control Board (hereinafter referred to as CPCB). I am authorized to file the counter affidavit on behalf of the 3rd Respondent - CPCB. I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear this reply affidavit on behalf of the Respondent No. 3, i.e CPCB.

1. That the averment made in Paras 1 and 2 are about address of Applicant and Respondent (s). The same are matter of records and no comments from this Answering Respondent No. 3, i,e CPCB.



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2. That the averment made in Para 3 are that the Appellants are challenging the CRZ clearance vide its File No. 11-45/2022-IA.III, dated 11.1.2023 issued by the Ministry of Environment, Forest and Climate Change, Government of India for laying of new marine disposal pipeline in place of existing two lines and increase of marine discharge quantity at N. Narasapuram (V), Ch. Lakshmipuram (V), Rajayyapeta (V), Pedda Teemala (V) of Nakkapalli (M), Visakhapatnam District, Andhra Pradesh by M/s Hetero Infrastructure SEZ ltd. It is humbly submitted that the Central Pollution Control Board, the 3rd Respondent herein has been created under Section 3 of the Water (Prevention & Control of Pollution), Act 1974, and the provisions of these Acts are also exercised by the Central Pollution Control Board. It is further submitted that the State Pollution Control Boards have been created in all States under Section 4 of the Water (Prevention & Control of Pollution), Act 1974 and under Section 5 of the Air (Prevention & Control of Pollution), Act 1981, to implement the provisions of these Acts in respect of their territorial Jurisdiction. The State Pollution Control Board has been fully empowered and conferred to implement the provisions of these Acts in respect of the Industrial development and preservation of the Environment. Environmental Clearance & CRZ mandated by the Environmental (Protection) Act 1986, is granted by MoEF&CC. Therefore, MoEF&CC and Andhra Pradesh Pollution Control Board are responsible to ensure the compliance of the conditions of Environmental Clearance and Consent to Operate as well as other environmental rules and regulations. Hence, no comments from this Answering Respondent No. 3, i.e CPCB.
3. That the averment made in Para 4 are that CRZ Clearance issued to 6th Respondent. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.
4. That the averment made in Para 5 & Para 6 are with respect to the matter of Original Application No. 23 of 2022 (SZ) pending before the Hon'ble National Green Tribunal, Southern Zone, Chennai.



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As stated in the application by the applicant, Hon'ble NGT(SZ), Chennai constituted the joint committee and accordingly its report was filed. The violations observed by the joint committee in its report with respect to Clearances are as follows;

Violations of the main conditions of CRZ Environmental Clearance;

- i) *The Project Authorities have laid down pipe line without obtaining prior CRZ clearance from the competent authority.*
- ii) *The Project Authorities have installed desalination unit in CRZ area without obtaining prior approval from MoEF&CC. The representative of the industry has informed that the officials of MoEF&CC have inspected the industry and addressed a letter to the industry vide letter dt: 25.11.2013 wherein mentioned that "there is desalination plant of capacity 1000 m3/day catering to the present water requirement. The desalination plant is located in CRZ area with due permission from MoEF.*

Non-compliances of the main conditions of Environmental Clearance

- i) *Regular Independent monitoring report of marine quality including temperature and salinity at the outfall is not being submitted. Latest report dated April, 2019 is available with Project Authorities. (Construction phase Specific Condition No. iii)*
- ii) *Lighted buoys were not provided at intake and outfall locations (Construction phase Specific Condition No. vi)*
- iii) *A continuous and comprehensive post project marine quality monitoring is not being done on regular basis. Latest report dated April, 2019 is available with Project Authorities. (Construction phase Specific Condition no. x)*
- iv) *Display boards not provided at critical locations along the pipeline viz., road/river crossing (Construction phase Specific condition no.xii)*

Non-compliances of the main conditions of consent for Operation:

- i) *M/s. Hetero Infrastructure SEZ Ltd., has started laying of new marine pipeline in place of existing two lines (viz., Treated Effluent and Desalination Plant Rejects) without obtaining permissions from APPCB.*



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- ii) Some of the scrubbers attached to the reactors are not in working condition and also not provided online pH meters to the scrubbers.
- iii) The industry has not provided to pumping facility to pump the wastewater generated from detoxification facility at the individual production block to LTDS collection tank.
- iv) The industry has not converted single stage scrubber to the double stage scrubber as per the conditions stipulated in CFO Order dt: 29.03.2020 issued to M/s. Hetero Labs Ltd., Unit-IX.
- v) The industry not evaluated the performance of solvent recovery system as per the conditions stipulated in CFO Order dt: 11.12.2017 issued to M/s. Hetero Labs Ltd., Unit-III.
- vi) The industry has not provided continuous ambient air quality monitoring system to monitor CO parameter as per the condition stipulated in CFO Orders dt: 29.03.2020 and 11.12.2017 issued to M/s. Hetero Labs Ltd., Unit-IX & Unit-III respectively.
- vii) The industry has not provided online pH measuring system to the scrubbers and also observed that the industry has not replaced the scrubbing liquid periodically for effective operation of scrubbers to control odour nuisance.
- viii) The industry not complied with the Task Force directions vide order dated.16.05.2016 & dated.30.11.2016 to M/s. Hetero Labs Ltd., Unit-III & M/s. Hetero Infrastructure SEZ Ltd., respectively.

5. That the averment made in Para 7 are that the relevant extracts of the Joint Committee report and orders and directions issued by APPCB to the 6th Respondent unit are reproduced. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.

6. That the averment made in Para 8 are that the EAC has accepted the misleading undertaking submitted by the 6th Respondent- Project Proponent and recommended for grant of CRZ clearance. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.



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7. That the averment made in Para 9 are that based on the recommendation of the EAC, the MoEF &CC has granted CRZ clearance. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.
8. That the averment made in Para 10 are that the condition 8 of the CRZ clearance are reproduced. The same are matter of records and no comments from this Answering Respondent No. 3, i.e CPCB.
9. That the averment made in Para 11 are that the 6th Respondent after getting the CRZ clearance in illegal manner, has written a letter of intimation to the Gram panchayat of Rajayyapeta village. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.
10. That the averment made in Para 12 are that the village Sarpanch and other affected persons have written letters to District Collector and Secretary of MoEF&CC for cancellation of CRZ clearance granted to 6th Respondent. The matter pertains to other answering respondents and Hence, no comments from this Answering Respondent No. 3, i.e CPCB.
11. That the averment made in Para 13 are that the extracts of Hon'ble Supreme Court of India in Hanuman Laxman Aroskar Vs Union of India (2019) 15 SCC 401 is reproduced. The same are matter of records and need no comments from this Answering Respondent No. 3, i.e CPCB.

That in the view of above, it is respectfully prayed that this Hon'ble Court may be pleased to dispose off the Petition and pass appropriate Order or directions in the interest of justice and this answering Respondent shall abide by any/all orders or directions passed by this Hon'ble Court.



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VERIFICATION

It is verified that the content of this Affidavit is based on official record and information available in the office are true and correct. Nothing has been concealed therein.

Signed and verified on this 23rd day of November, 2023 at Chennai.



Counsel for CPCB



Deponent

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Regional Director

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