

IN BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI BENCH

APPEAL No. 49 of 2020 (SZ)

IN THE MATTER OF: -

Mr Rajesh Ghantayath

.... Appellant

VERSUS

Union of India & Ors

.... Respondent

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.1, MINISTRY OF

ENVIRONMENT, FOREST AND CLIMATE CHANGE

MOST RESPECTFULLY SHOWETH:

I, **Dr. Murali Krishna Chimata** working as **Scientist "D"** in the Integrated Regional Office of the Ministry of Environment, Forest and Climate Change (MoEF&CC), at Bangalore, the deponent herein do hereby solemnly affirm and state on oath as under:

1. That I am competent and duly authorized to swear the present Counter Affidavit on behalf of MoEF&CC and to depose by way of the present affidavit.
2. That the Answering Respondent is not replying to the present application in parawise manner, however, the Answering Respondent craves leave to file a detailed Affidavit as and when necessary and required by this Hon'ble Tribunal.

3. The applicant filed this instant appeal praying, inter-alia, to quash the Environmental Clearance issued by Ministry of Environment, Forest and Climate Change to Respondent No. 6 i.e., M/s Mother Earth Environ Tech Private Limited for the setting up of Integrated Treatment, Storage and Disposal Facility of Hazardous Waste with Incineration and landfill facility at Plot No. 667 to 689, Karnataka Industrial Area Development Board (KIADB) Harohalli Industrial Area Phase III, District Ramanagara, Karnataka bearing F. No. 10-39/ 2020 -IA.III dated 09.11.2020.
4. It is submitted that under the Environment (Protection) Act, 1986 read with Environment (Protection) Rules, 1986, the Answering Respondent has issued a Notification number S.O. 1533(E) dated 14th September 2006 (hereinafter referred to as the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27th January 1994.
5. That as per the EIA Notification, 2006, the projects or activities, as given in the schedule to the said notification, shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment, Forest and Climate Change for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule.

6. It is submitted that the Treatment, Storage and Disposal Facilities (TSDFs) are covered under entry 7(d) of the Schedule to the EIA Notification, 2006 with details as under:

	Project or Activity	Category with threshold limit		Conditions
		A	B	
(1)	(2)	(3)	(4)	(5)
7		Physical Infrastructure Including Environmental Services		
7(d)	Treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & Landfill or incineration Alone.	All facilities having land fill only.	General Conditions shall Apply.

The project/activity is covered under category 'A' of item 7(d) 'Common Hazardous Waste Treatment, Storage and Disposal Facilities (TSDFs) of the Schedule to the EIA Notification, 2006 and its subsequent amendments, and requires appraisal at Central level.

7. The EIA Notification, 2006 in Paragraph 7, stipulates four stages in the process of obtaining Environmental Clearance, Stage (1) is Screening wherein the Expert Appraisal Committee, or the State Expert Appraisal Committee takes the decision whether or not Environmental Impact Assessment Report has to be prepared for the proposed project. Stage (2) is Scoping wherein the Expert Appraisal Committee for category 'A' projects and the State Expert Appraisal Committee for category 'B' projects determines detailed and comprehensive Terms of Reference addressing all relevant

environmental concern for the preparation of an EIA Report in respect of the proposed project or activity for which the prior environmental clearance is sought. Stage (3) relates to Public Consultation and has two components- 1) a public hearing, which is conducted by the concerned State pollution Control Board at the project site or in its close proximity, explaining all possible environment impacts and measures proposed in EMP and 2) obtaining written responses from other concerned persons who have a plausible stake in the environment aspects of the project or activity. Lastly, Stage (4) relates to Appraisal of the Project wherein the detailed scrutiny is conducted by the EAC or the SEAC of the application and other documents like the Final EIA Report and outcome of public consultations including public hearing proceedings, submitted by the Project Proponent for recommending the proposal for grant of prior Environmental Clearance.

8. It is submitted that this Hon'ble Tribunal vide its order dated 02.07.2021 directed the Ministry to produce the file relating to the issuance of the Environmental Clearance along with the reply statement. The relevant portion of the order dated 02.07.2021 is reproduced herein below:

"The issuing authority is also directed to produce the file relating to the issuance of the environmental clearance along with the reply statement, so that this Tribunal will be able to peruse the file to ascertain the fact as to whether there is proper application of mind by the issuing authority and the recommending authority and also as to whether there is any suppression of material facts made by the project proponent while making the application."

9. That as per the Directions of Hon'ble NGT, the entire file along with note sheets of File No. 10-39/2020- IA-III relating to M/s. Mother Earth Enviro Tech Private Limited is annexed as **Annexure-1.**
10. That it is submitted that the project proponent i.e. Mother Earth Environ Tech Pvt Ltd. (Unit-2) Integrated Treatment, Storage & Disposal Facility of Hazardous waste with incineration and landfill facility at Plot no. 667 to 689, Karnataka Industrial Area Development Board (KIADB) Harohalli Industrial Area Phase III, District Ramanagara, Karnataka by M/s Mother Earth Environ Tech Private Limited (MEEPL) had applied for Terms of Reference with the Answering Respondent vide proposal No. IA/KA/MIS/157127/2020 dated 11th June, 2020 for Integrated Treatment, Storage & Disposal Facility of Hazardous Waste with Incineration and Landfill Facility. The Expert Appraisal Committee (EAC) (Infrastructure – II) in its 53rd meeting held on 23-24 July 2020 **(Minutes of the said meeting is annexed as Annexure-2)** appraised the project and recommended the 'TOR' in addition to all the relevant information as per the 'Generic Structure of EIA Notification, 2006'. **(The copy of TOR letter dated August 7, 2020, is annexed herewith as Annexure-3).**
11. It is submitted that the project proponent *vide* online proposal No. IA /KA /MIS /170915/2020 dated 4th September 2020 submitted for grant of EC with Answering Respondent. The proposal has been discussed and appraised by the Expert Appraisal Committee (Infrastructure – II) in its 55th meeting held on 24th - 25th September 2020 **(The Minutes of Meeting dated 24th-25th September 2020 is Annexed herewith as Annexure-4).** The EAC after detailed deliberations,

during the meeting, recommended the project for grant of Environment Clearance with specific and general conditions.

12. It is submitted that the Answering Respondent upon recommendation of EAC, has granted the Environmental Clearance vide letter dated 09.11.2021 to M/s Mother Earth Environ Tech Private Limited, # 2542, 17th Main, 28th Cross, Banashankari 2nd Stage, Near BDA Complex Bengaluru - 560070 subject to stipulation of various environmental safeguards, which inter-alia included the following.

Standard Conditions — Statutory Compliance:

- 1) *The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1980, in case of the diversion of forest land for non- forest purpose involved in the project.*
- 2) *The project proponent shall obtain clearance from the National Board for Wildlife, if applicable.*
- 3) *The project proponent shall prepare a Site-Specific Conservation Plan & Wildlife Management Plan and approved by the Chief Wildlife Warden. The recommendations of the approved Site-Specific Conservation Plan / Wildlife Management Plan shall be implemented in consultation with the State Forest Department. The implementation report shall be furnished along with the six-monthly compliance report (in case of the presence of Scheduled species in the study area).*
- 4) *The project proponent shall obtain Consent to Establish / Operate under the provisions of Air (Prevention & Control of Pollution) Act, 1981 and the Water*

(Prevention & Control of Pollution) Act, 1974 from the concerned State Pollution Control Board/ Committee.

- 5) *The Project proponent should ensure that the TSDF fulfils all the provisions of Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016.*
- 6) *The project proponents shall adhere to all conditions as prescribed in the Protocol for Performance Evaluation and Monitoring of the Common Hazardous waste treatment, storage and disposal facilities' published by the CPCB in May, 2010.*
- 7) *Incinerator shall be designed as per CPCB guidelines. Energy shall be recovered from incinerator.*
- 8) *The project proponent shall obtain the necessary permission from the Central Ground Water Authority, in case of drawl of ground water / from the competent authority concerned in case of drawl of surface water required for the project.*
- 9) *A certificate of adequacy of available power from the agency supplying power to the project along with the load allowed for the project should be obtained.*
- 10) *All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department shall be obtained, as applicable by project proponents from the respective competent authorities.*

II Air quality monitoring and preservation:

- 1) *The project proponent shall install 24x7 continuous emission monitoring system at process stacks to monitor stack emission with respect to standards prescribed in Environment (Protection) Rules 1986 and connected to SPCB and CPCB online*

servers and calibrate these systems from time to time according to equipment supplier specification through labs recognized under Environment (Protection) Act, 1986 or NABL accredited laboratories.

- 2) The project proponent shall monitor fugitive emissions in the plant premises at least once in every quarter through labs recognized under Environment (Protection) Act, 1986.
- 3) The project proponent shall install system to carryout Ambient Air Quality monitoring for common/criterion parameters relevant to the main pollutants released (e.g., PM 10 and PM 2.5 in reference to PM emission, and SO₂ and NO_x in reference to SO₂ and NO_x emissions) within and outside the plant area at least at four locations (one within and three outside the plant area at an angle of 120° each), covering upwind and downwind directions.
- 4) Sampling facility at process stacks and at quenching towers shall be provided as per CPCB guidelines for manual monitoring of emissions.
- 5) The project proponent shall submit monthly summary report of continuous stack emission and air quality monitoring and results of manual stack monitoring and manual monitoring of air quality /fugitive emissions to Regional Office of MoEF&CC, Zonal office of CPCB and Regional Office of SPCB along with six- monthly monitoring report.
- 6) Appropriate Air Pollution Control (As proposed, air pollution control device viz. gas quencher; treatment with mixture of hydrated lime and activated powder for adsorption of partial acidity and VOCs (if any); bag filter/ESP for removal of particulate matter; venturi scrubber followed by packed bed scrubber with caustic

circulation to neutralize the acidic vapors in flue gas; and demister column for arresting water carry over will be provided to the incinerator) system shall be provided for all the dust generating points including fugitive dust from all vulnerable sources, so as to comply prescribed stack emission and fugitive emission standards.

7) The periodical monitoring of Dioxins and Furans in the Stack emissions shall be carried out. Analysis of Dioxins and Furans shall be done through CSIR-National Institute for Interdisciplinary Science and Technology (NIIST), Thiruvananthapuram or equivalent NABL Accredited laboratory

8) Gas generated in the Land fill should be properly collected, monitored and flared.

9) A detailed traffic management and traffic decongestion plan shall be drawn up to ensure that the current level of service of the roads within a 02 kms radius of the project is maintained and improved upon after the implementation of the project. This plan should be based on cumulative impact of all development and increased habitation being carried out or proposed to be carried out by the project or other agencies in this 02 Kms radius of the site in different scenarios of space and time and the traffic management plan shall be duly validated and certified by the State Urban Development department and the P.W.D./ competent authority for road augmentation and shall also have their consent to the implementation of components of the plan which involve the participation of these departments.

III Water quality monitoring and preservation:

1) The project proponent shall install continuous effluent monitoring system with respect to standards prescribed in Environment (Protection) Rules 1986 and

connected to SPCB and CPCB online servers and calibrate these systems from time to time according to equipment supplier specification through labs recognized under Environment (Protection) Act, 1986 or NABL accredited laboratories.

- 2) Sufficient number of Piezometer wells shall be installed in and around the project site to monitor the ground water quality in consultation with the State Pollution Control Board / CPCE3. Trend analysis of ground water quality shall be carried out each season and information shall be submitted to the SPCB and the Regional Office of MoEF&CC.
- 3) The project proponent shall submit monthly summary report of continuous effluent monitoring and results of manual effluent testing and manual monitoring of ground water quality to Regional Office of MoEF&CC, Zonal office of CPCB and Regional Office of SPCB along with six-monthly monitoring report.
- 4) No discharge in nearby river(s)/pond(s).
- 5) The depth of the land fill site shall be decided based on the ground water table at the site. The Company shall ensure proper handling of all spillages by introducing spill control procedures for various chemicals.
- 6) All leachates arising from premises should be collected and treated in the ETP followed by RO. RO rejects shall be evaporated in MEE. Toxicity Characteristic Leaching Procedure (TCLP) test to be performed on leachates.
- 7) The Company shall review the unit operations provided for the treatment of effluents, specially the sequencing of MEE after tertiary treatment, the source of permeate when no R.O. is recommended and the treatment of MEE condensate.

The scheme for treatment of effluents shall be as permitted by the Pollution Control Board/Committee under the provisions of consent to establish.

- 8) Scrubber water, leachate water or wheel wash effluent shall be treated in the effluent treatment plant followed by RO to achieve zero liquid discharge.
- 9) Total freshwater use shall not exceed the proposed requirement as provided in the project details. Prior permission from competent authority shall be obtained for use of fresh water.
- 10) Sewage Treatment Plant shall be provided to treat the wastewater generated from the project. Treated water shall be reused within the project.
- 11) A certificate from the competent authority for discharging treated effluent/ untreated effluents into the public sewer/ disposal/drainage systems along with the final disposal point should be obtained.
- 12) Rainwater runoff from hazardous waste storage area shall be collected and treated in the effluent treatment plant.

IV. Noise monitoring and prevention:

- 1) *Noise level survey shall be carried as per the prescribed guidelines and report in this regard shall be submitted to Regional Officer of the Ministry as a part of six-monthly compliance report.*
- 2) *The ambient noise levels should conform to the standards prescribed under E(P)A Rules, 1986 viz. 75 dE3(A) during daytime and 70 dB(A) during nighttime.*
- 3) *Acoustic enclosures for DG sets, noise barriers for ground-run bays, ear plugs for operating personnel shall be implemented as mitigation measures for noise impact due to ground sources.*

V. Energy Conservation measures:

- 1) *Energy conservation measures like installation of LED/CFLs/TFLs for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning.*

VI. Waste Management:

- 1) *The TSDF should only handle the waste generated from the member units.*
- 2) *Periodical soil monitoring to check the contamination in and around the site shall be carried out.*
- 3) *No non-hazardous wastes, as defined under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, shall be handled in the premises.*
- 4) *The Project proponent shall not store the Hazardous Wastes more than the quantity that has been permitted by the CPCB/SPCB.*
- 5) *The solid wastes shall be segregated, managed and disposed as per the norms of the Solid Waste Management Rules, 2016.*
- 6) *A certificate from the competent authority handling municipal solid wastes should be obtained, indicating the existing civic capacities of handling and their adequacy to cater to the M.S.W. generated from project.*
- 7) *Any wastes from construction and demolition activities related thereto shall be managed so as to strictly conform to the Construction and Demolition Rules, 2016.*

VII. Green Belt:

- 1) Green belt shall be developed in an area as provided in project details, with native tree species in accordance with Forest Department. The greenbelt shall inter alia cover the entire periphery of the project site.
- 2) Topsoil shall be separately stored and used in the development of green belt.

VIII. Public hearing and Human health issues:

- 1) Traffic congestion near the entry and exit points from the roads adjoining the project site shall be avoided. Parking should be fully internalized, and no public space should be utilized.
- 2) Emergency preparedness plan based on the Hazard identification and Risk Assessment (HIRA) and Disaster Management Plan shall be implemented.
- 3) Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- 4) Occupational health surveillance of the workers shall be done on a regular basis.

IX. Miscellaneous:

- 1) *The project proponent shall make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the District or*

State, of which one shall be in the vernacular language within seven days and in addition this shall also be displayed in the project proponent's website permanently.

2) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.

3) The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.

4) The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.

5) The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.

6) The company shall have a well laid down environmental policy duly approve by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental / forest /wildlife norms/ conditions. The company shall have defined system of reporting

infringements / deviation / violation of the environmental / forest / wildlife norms / conditions and / or shareholder's / stake holders. The copy of the board resolution in this regard shall be submitted to the MoEF&CC as a part of six- monthly report.

7) A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly report to the head of the organization.

8) Action plan for implementing EMP and environmental conditions along with responsibility matrix of the company shall be prepared and shall be duly approved by competent authority. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Year wise progress of implementation of action plan shall be reported to the Ministry/Regional Office along with the Six-Monthly Compliance Report.

9) Self-environmental audit shall be conducted annually. Every three years third party environmental audit shall be carried out.

10) The criteria pollutant levels namely, PM 2.5, PM 10, SO2, NOx (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.

11) The project proponent shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities, commencing the land development work and start of production operation by the project.

12) *The project authorities must strictly adhere to the stipulations made by the State Pollution Control Board and the State Government.*

13) *The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.*

14) *No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forests and Climate Change (MoEF&CC).*

15) *Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.*

16) *The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.*

17) *The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.*

18) *The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/monitoring reports.*

19) *The above conditions shall be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of) Page 7 of 8 Pollution) Act, 1981, the Environment (Protection) Act, 1986,*

Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and the Public Liability Insurance Act, 1991 along with their amendments and Rules and any other orders passed by the Hon'ble Supreme Court of India / High Courts/NGT and any other Court of Law relating to the subject matter.

20) Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

A copy of Environmental Clearance dated 09.11.2020 is annexed herewith as Annexure – 5.

13. It is submitted that the project proponent is obligated to comply with the conditions stipulated in the above-said EC. The compliance of these conditions is strictly assessed/evaluated/ monitored by the concerned authorities at the State and Center level. If there is any non – compliance of the Environmental Clearance conditions, effective action in accordance with the law is taken by the Competent Authorities against the project proponent.

14. It is submitted that the Environmental Clearance dated 09.11.2020 for the projects in question has been granted by the Ministry in accordance with law and this Answering Respondent has followed the due procedure for appraisal of the Project as prescribed under the EIA Notification, 2006 and subsequent amendments and subject to stipulation of various environmental safeguards.

15. It is further submitted that projects are examined and considered and appraised by the EAC after judicious application of mind, dealing with all the relevant and material aspects of the projects.

16. It is submitted that 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.

17. That other/ancillary issues raised in the application under reply do not pertain to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.


DEPONENT

Dr. Murali Krishna Chimata
Scientist "D"
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bengaluru-560034

VERIFICATION

Verified at Bangalore on 16th day of August 2021 that the contents of the above Affidavit are correct to my knowledge and belief based on official records and nothing material has been concealed therefrom.


DEPONENT

Dr. Murali Krishna Chimata
Scientist "D"
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bengaluru-560034