

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SOUTH ZONE)  
AT CHENNAI

Original Application No. 49/2022

BETWEEN

Pradeep Babu Tandel & Another . . . Applicant

AND

Union of India & Others . . . Respondents

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Through Advocate

(H.K. VASANTH)

Place: Bangalore

Date: 18/06/2021

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**AND**

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**REPLY STATEMENT FILED BY STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY, KARNATAKA (RESPONDENT NO. 2)**

**Most Respectfully Showeth:**

I, Kiran Kumar B.S., Working as Scientific Officer, Grade – 1, Forest, Ecology & Environment Department, Government of Karnataka and assisting the State Level Environment Impact Assessment Authority, Karnataka do hereby state that I have been authorized to file the reply statement in my official capacity and I am familiar with the facts and circumstances of the present matter. I state that the contents of the present reply statement are true and correct and are verifiable from the official records and nothing material has been concealed there from.

1. It is respectfully submitted that the State Level Environment Impact Assessment Authority, Karnataka (hereinafter referred as "SEIAA") have granted Prior Environmental Clearance to the project under consideration in the present matter, in accordance with applicable law. Without any prejudice to this, a consolidated

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reply to the application is submitted herein below, while reserving the right to file a detailed parawise reply, if so necessitated, with the permission of this Tribunal. It is further submitted that each of the submissions and allegations made in the present application against SEIAA, may be deemed as denied unless specifically admitted to herein below.

2. It is respectfully submitted that the online application was filed by Respondent No. 4 on 28<sup>th</sup> February 2017 seeking prior Environment Clearance for proposed 2<sup>nd</sup> Stage Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01 acres). The proposal has been appraised by State Level Expert Appraisal Committee (hereinafter referred to as "SEAC") as per the prescribed procedure in the light of the provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., Statutory Application in Form – I, Pre-feasibility Report, EIA Study Report, Presentation made before the SEAC, additional information and clarification submitted.
3. It is respectfully submitted that The Directorate of Ports and Inland Water Transport, Government of Karnataka have proposed for 2<sup>nd</sup> State Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01 Acres) in addition to the existing area of 3 Hectares. The capacity of the port proposed to be increased from 3 million tons/anum to 4.5 million tons/anum.
4. It is respectfully submitted that the project proposal was considered by SEAC during the meeting held on 21<sup>st</sup> March 2017

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and recommended to SEIAA for issue of standard ToRs along with additional ToRs. The Authority during the meeting held on 1<sup>st</sup> April 2017 decided to issue ToRs as recommended by SEAC for conducting EIA Study in accordance with EIA Notification, 2006. Accordingly ToRs were issued on 12<sup>th</sup> April 2017 and subsequently, EIA Report was submitted on 27<sup>th</sup> September 2018.

5. It is respectfully submitted that after due deliberations, the SEAC has recommended to SEIAA for issue of environmental Clearance in its meetings held on 4<sup>th</sup> December 2018 and based on the recommendations, the SEIAA has considered the project in its meeting held on 26<sup>th</sup> December 2018 and after due consideration, have decided to accord environmental clearance to the project proponent.
6. It is respectfully submitted that the Environmental Clearance was issued to the project proponent on 23/01/2019, subject to strict compliance of terms and conditions envisaged in the EC for the proposed 2<sup>nd</sup> Stage Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01 Acres) in addition to the existing area of 3 Hectares with the proposed increase in capacity from 3 million tons/anum to 4.5 million tons/anum.
7. It is respectfully submitted that the EC was issued to the project proponent by SEIAA subject to strict compliance of Specific conditions and General Conditions as envisaged in the EC. General condition No. 4 of the EC states that "No further expansion or modification of Commercial Port shall be carried out without prior approval of the SEIAA/Ministry of Environment & Forest, as the case may be. In case of deviations or alterations in the project proposal from those submitted to the authority for clearance, a fresh

  
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reference shall be made to the Authority to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any". General condition No. 22 states that "In the case of any change/s in the scope of the project, the project would require a fresh appraisal by this Authority".

8. It is respectfully submitted that the applicants in the present matter have alleged that the project proponent has violated the conditions imposed in the EC in so far as there is a change in scope of the project since the project proponent has submitted an application for obtaining Forest Clearance to use an additional 11.74 Hectares of forest land which is an expansion of the project and also there was deliberate concealment of material and relevant information by the project proponent in Form – I at the time of submitting application seeking Prior EC. Hence the applicants have sought for revocation of EC dated 23/01/2019 and other consequential reliefs.
  
9. It is respectfully submitted that after receipt of notice of the Original Application from the Hon'ble Tribunal, SEIAA, Karnataka had requested the project proponent to answer the allegations made against it by the applicants along with supporting documents. The project proponent has furnished copy of the application for forest land clearance and DPR and has contended that there was no deliberate concealment of material and relevant information by the project proponent in Form – I at the time of submitting application seeking Prior EC and that the application for forest land clearance is in no way connected or interlinked with the proposed 2<sup>nd</sup> Stage Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01

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Acres) and both are entirely different projects. The project proponent also stated that the proposed 2<sup>nd</sup> Stage Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01 Acres) is being taken up on reclaimed land within the port area without any Survey number and that the forest clearance has been sought by the project proponent in Forest Sy. No. 42 to an entirely different project.

10. It is respectfully submitted that mere submission of an application before the concerned authorities for forest clearance cannot lead to the conclusion that the project proponent has indeed changed the scope of the project by adding additional land. It is for the applicants to satisfy the Hon'ble Tribunal beyond doubt that the application for forest clearance has been made by the project proponent for the purpose of adding additional lands to the project in question, thereby changing the scope of the project and that there was deliberate concealment of material and relevant information by the project proponent in Form – I at the time of submitting application seeking Prior EC.

11. It is respectfully submitted that the Respondent No. 3 has stated in his statement of objections that the EC dated 23/01/2019 was issued by SEIAA for proposed 2<sup>nd</sup> Stage Development of Commercial Karwar Port on a plot area of 17 Hectares (42.01 Acres) in addition to the existing area of 3 Hectares with the proposed increase in capacity from 3 million tons/anum to 4.5 million tons/anum. The Respondent No. 3 further states that the submission of application of Forest Clearance of 11.74 Hectares of land is for an entirely different project and it is not in any way

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related to the 2<sup>nd</sup> stage development of Commercial Karwar Port. It is up to the Respondent No. 3 to satisfy the Hon'ble Tribunal that there is no change in the scope of the project to which EC dated 23/01/2019 has been issued and that there was no deliberate concealment of material and relevant information by the project proponent in Form – I at the time of submitting application seeking Prior EC.

12. It is respectfully submitted that the activities proposed to be taken up by the project proponent in Sy. No. 42 of Baithakol village, in effect, result in the change of scope of the project as stated in the EC dated 23/01/2019, the project proponent is required to approach SEIAA for fresh appraisal as per the General Condition No. 4 & 22. As and when an application is made for fresh appraisal, the SEIAA, Karnataka will consider such application as per the prescribed procedure in the light of the provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., Statutory Application in Form – I, Pre-feasibility Report, EIA Study Report, Presentation made before the SEAC, additional information and clarification submitted

13. It is respectfully submitted that the projects/activities considered under EIA Notification, 2006 are issued with "Prior Environmental Clearance" by the SEIAA subject to strict compliance to the conditions of such clearance. Hence, the Environmental Clearance granted to the Respondent No. 4 vide letter dated 23/01/2019 is "Prior Environmental Clearance" issued based on the information furnished by the project authorities in the Statutory application

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form-1, Pre-feasibility report, EIA report, additional information/clarification submitted during appraisal under the provisions of EIA Notification, 2006 subject to strict compliance of Specific and General conditions imposed thereon which includes obtaining clearances from all other statutory authorities required under law. Any non-compliance of such conditions will be dealt in accordance with law. Therefore, the contentions made in this application with regard to change in scope of the project by adding additional forest land and concealment of material and relevant information in Form – I at the time of submitting application seeking Prior EC will be dealt with in accordance with law, if established.

That in view of the submissions made above, the Respondent No. 2 respectfully prays that this Hon'ble Tribunal be pleased to pass any such order/directions as it may find fit and proper in the facts and circumstances of the matter and SEIAA will be bound by the order/directions of this Hon'ble Tribunal.

Place: Bangalore

Date: 18/06/2021

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