

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

IN  
APPEAL No. 5 of 2022

IN THE MATTER OF:-

SHAJI A.K.

....APPELLANT(s)

VERSUS

MoEF&CC&ors

....RESPONDENT(s)

REPLY ON BEHALF OF RESPONDENT NO.1 MINISTRY OF  
ENVIRONMENT, FOREST AND CLIMATE CHANGE

MOST RESPECTFULLY SHOWETH:-

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

1. That, I am competent to swear the present counter affidavit on behalf  
of MoEF&CC.

*Dr. Murali Krishna*  
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2. That, I have perused the contents of the above captioned appeal filed by the appellant and I am duly authorized to depose by way of the present affidavit.
3. That, the Answering Respondent is not replying to the present appeal in para-wise manner, however, the Answering Respondent craves leave to file a detailed affidavit as and when necessary and required by this Hon'ble Tribunal.
4. That, this appeal has been filed praying *inter-alia*, for setting aside the Environmental Clearance No. 1193/EC2/2018/SEIAA dated 12.03.2020 granted by the SEIAA, Kerela to the Respondent No.5 i.e. M/s Calicut Landmark Builders and Developers of (India) Pvt.ltd. for a construction project and Township and Area Development Project namely "Landmark Trade" at Kozhikode District.
5. In this regard, it is submitted that the answering respondent has issued an Environmental Impact Assessment Notification number S.O. 1533 E dated 14, September 2006 superseding the Environmental Impact Assessment Notification 1994. The EIA Notification, 2006 regulates developmental projects in respect of construction of new projects/activities/expansion or modernization of existing projects in different parts of the country after the prior Environmental Clearance from the Central Government or as the case may be, by the State Level Environmental Impact Assessment Authority, duly constituted

Ch. P. Anjali Krishna

by the Central Government under sub section (3) of section 3 of the said Act, in accordance with the procedure specified in the notification. A copy of the Environmental Impact Assessment Notification, 2006 is annexed as Annexure-1.

6. That EIA Notification, 2006 covers 39 project/activity in its Schedule which inter-alia, includes different types of infrastructure projects viz. Airports, Ports, Highways, Building & Construction Projects etc. as specified and categorized in the said schedule.
7. That as per the EIA Notification, 2006, the following projects or activities 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 and Forests 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, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:
  - a. All new projects or activities listed in the Schedule to this notification;

*Ch. P. Prasad Krishna*

b. Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

c. Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

8. That it is submitted that under the provisions of the EIA Notification, 2006, Environment Clearance for Building and Construction Projects & Township and Area Development Projects are covered under entry 8 (a) & (b) of the Schedule to the EIA Notification, 2006. The entry 8(a) and 8(b) of the Schedule of EIA Notification 2006 provides as follows;

“8(a): Building and Construction projects -  $\geq 20000$  sqm. and  $< 150000$  sqm. of built-up area require EC.

8(b): Townships and Area Development projects - Covering an area  $\geq 50$  ha. and or built up area  $>150000$  sqm. – require EC. (All projects under Item 8(b) shall be appraised as Category B1).

9. That the aforementioned entries under item 8(a) and 8(b) are qualified as category ‘B’ projects under the EIA Notification, 2006 and requires appraisal by the State Level Expert Appraisal Committees (SEACs)

Ch. Prudhvikrishna

and approved by the State Level Environment Impact Assessment Authorities (SEIAAs). Further, that as per the EIA Notification, 2006, in the absence of a duly constituted SEIAA/SEAC, a category 'B' project shall be considered at the Central Level as category 'B' project.

10. It is submitted that the requirement of taking Environment Clearance for any building construction project is governed by the aforesaid provisions, stated in para above.
11. That, the para 3 of EIA Notification provides procedure for constitution of SEIAA at the State level. The para 3 is reproduced herein as under:

“3. State Level Environment Impact Assessment Authority:-

(1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary to be nominated by the State Government or the Union territory Administration concerned.

(2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.

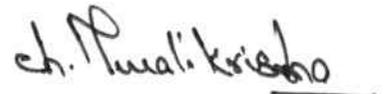
Ch. Praveen Krishna

- (3) The Chairman shall be an expert in terms of eligibility criteria given in Appendix VI in one of the Specified fields, with sufficient experience in environmental policy or management.
- (4) The member shall be an expert fulfilling the eligibility criteria given in Appendix VI in one of the Specified fields.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in subparagraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- (7) All decisions of the SEIAA shall be unanimous and taken in a meeting.”
12. It is submitted that in the absence of a duly constituted SEIAA or SEAC, a Category ‘B’ project shall be considered at the Central Level as a Category ‘B’ project.
13. It is submitted that the present counter affidavit may kindly be taken on record and into consideration and the Hon’ble Tribunal may pass

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appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.

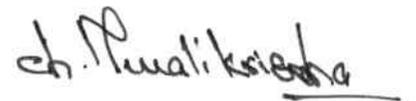
14. That, other/ancillary issues raised in the appeal under reply do not pertain to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.

  
**DEPONENT**

**Dr. Murali Krishna Chimata**  
Scientist "E"  
Ministry of Environment, Forest & Climate Change  
Integrated Regional Office  
Kendriya Sadan, Koramangala  
Bengaluru - 560034

### VERIFICATION

Verified at Bengaluru on this 17<sup>th</sup> day of May, 2022 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 "E"  
Ministry of Environment, Forest & Climate Change  
Integrated Regional Office  
Kendriya Sadan, Koramangala  
Bengaluru - 560034