

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI
IN
APPEAL NO. 54 OF 2021**

IN THE MATTER OF:

Thomas Lawrence,

Vs.

... Applicant(s)

SEIAA, Kerala and others

... Respondent(s)

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**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
IN
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IN THE MATTER OF:

Thomas Lawrence,

... Applicant(s)

Vs.

SEIAA, Kerala and others

... Respondent(s)

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO.2
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE**

1. I, **DR. MURALI KRISHNA** working as **SCIENTIST-E** in the Integrated Regional Office of the Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEFCC), at Bengaluru. I do hereby 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 MoEFCC 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.

Ch. Murali Krishna

4. It is humbly submitted that the appellant has prayed before the hon'ble tribunal to quash the impugned Environment Clearance letter dated 06.03.2021 granted by SEIAA to Dragonstone Realty Pvt. Ltd. for Expansion of its Mixed Land Use (Master Plan) project in Technopark Phase-3 Campus, Attipra Village, Thiruvananthapuram Corporation, Taluk & District Thiruvananthapuram, Kerala and also be directed to conduct a cumulative impact assessment of the present project Dragonstone Realty Pvt. Ltd.
5. It is submitted that under sub section (1) 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 the 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

Ch. Prudhikrishna

the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27th January, 1994.

7. It is humbly 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 or activities 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 provided as follows:

Ch. Prudhvi Krishna

	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 (SEZs), Biotech Parks, Leather Complexes	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 ha. and housing at least one Category industry	Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	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' does not require clearance. 2. If the area is less than 500 ha. but contains building and construction projects > 20,000 sq. mtr. and or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be."

9. That it is further submitted that , general conditions are applicable for such projects which mentions the following :-

Ch. P. Ramesh Krishna

“Any project or activity specified in Category ‘B’ will be appraised at the Central Level as Category ‘A’, if located in whole or in part within 5 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972 (53 of 1972); (ii) Critically Polluted areas as identified by the Central Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from time to time; (iii) Eco-sensitive areas as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986, and (iv) inter-State boundaries and international boundaries; provided that for River Valley Projects specified in item 1(c), Thermal Power Plants specified in item 1(d), Industrial Estates/parks/complexes/areas, export processing 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 :-

Ch. Anjali Krishna

“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, obtains 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)”.

11. Accordingly, it is humbly submitted that the Environmental Clearance to the project of Dragonstone Realty Pvt. Ltd. for Expansion of its Mixed Land Use (Master Plan) project in Technopark Phase-3 Campus, Attipra Village, Thiruvananthapuram Corporation, Taluk & District Thiruvananthapuram, Kerala was granted by the SEIAA (Kerala) wherein the total proposed expansion of area for the project is 3.93 ha, in Village Attipra, Taluk& District Thiruvananthapuram, Kerala and the project in question is required to take EC from the SEIAA (Kerala) as the proposed project falls under category ‘B’ project.
12. It is also respectfully submitted that the matter has been examined by the Ministry that, whether the project in question falls under category ‘A’, which

Ch. P. Ravi Krishna

are appraised at the central level. It has been observed that the proposed expansion does not house any category 'A' project necessitating appraisal at Central Level as per the provisions of EIA notification 2006, as amended. It is also submitted that no such proposal has been received in the ministry for appraisal.

13. It is submitted that upon above submission 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.

Ch. Murali Krishna
DEPONENT

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

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 Bengaluru on this 9th day of May 2022.

Ch. Murali Krishna
DEPONENT

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