

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

APPEAL No. 6 OF 2020

R.L.SRINIVASAN

31/36, Poorkali amman Street,
Kattupakkam, Ennore
Chennai 600057

... APPELLANT

Versus

UNION OF INDIA

New Delhi – 110003
& another

...RESPONDENTS

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Dated at Chennai on this 8th day of October, 2020

E-filing No.

Date : 08.10.2020

**M/s. ABDUL SALEEM
S.SARAVANAN
K.MOKSHAVATHY
&
R.SURESH**

COUNSEL FOR 2ND RESPONDENT
No.74, 2nd Floor, Marshalls Enclave,
Marshalls Road, Egmore, Chennai – 600 008.
Email: saleemattorney@gmail.com
Mobile: 9500069660

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

APPEAL No. 6 OF 2020

IN THE MATTER OF:

R.L.SRINIVASAN

31/36, Poorkali amman Street,
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... Appellant

Versus

1. UNION OF INDIA

Rep. by its Secretary to Government,
Ministry of Environment, Forests and Climate Change,
Indra Paryavaran Bhavan, Jor Bagh,
New Delhi - 110003

**2. M/s.TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION (TANGEDCO)**

Ennore Thermal Power station

Rep. by its Chairman cum Managing Director,
5th Floor, NPKRR Maaligai,
144 Anna Salai,
Chennai- 600002.

... Respondents

**REPLY STATEMENT FILED ON BEHALF OF
THE 2ND RESPONDENT**

I, B.Bertrand Russell, Son of Thiru Bhuvaraghan, aged about 58 years, working as Chief Engineer / Projects-I / Chennai in Tamil Nadu Generation and Distribution Corporation Ltd., having office at TNEB Headquarters, 144, Anna salai, Chennai-600 002, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Chief Engineer of the Tamil Nadu Generation and Distribution Corporation (TANGEDCO), representing the 2nd Respondent herein and as such I am well acquainted with the facts of the case from available records.

2. I state that the present appeal has been filed by the Appellant herein challenging the Environmental Clearance issued to the 2nd Respondent in F.No. J-13012/15/2018-IA-I (T) dated 11.12.2019 by


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TANGEDCO
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the 1st Respondent for the establishment of a 1x660 MW coal-fired thermal power plant in Ennore and quash the same.

3. I humbly submit I have read the contents of the above appeal and at the outset I deny all the averments in this appeal except those that are specifically admitted herein. I am filing this Reply Statement in my official capacity on behalf of the 2nd Respondent and reserve the right to file additional Reply Statement by this Respondent at a later stage.

4. Before traversing parawise, I respectfully submit that the above Appeal is not maintainable at all as it is devoid of merits on both the factual and legal aspects. I state that the Appeal has been filed with vested interest and is an abuse of process of law.

5. I humbly submit the Tamil Nadu Electricity Board (TNEB) was formed on 1st July, 1957 under Section 54 of the Electricity (Supply) Act 1948 in the State of Tamil Nadu as a vertically integrated utility responsible for power generation, transmission and distribution. The electricity network has since been extended to all villages and towns throughout the State. TNEB was restructured on 01.11.2010 into TNEB Limited; Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the 2nd Respondent herein and Tamil Nadu Transmission Corporation Limited (TANTRANSCO).

6. I humbly submit that due to the ever growing power demand in the State of Tamil Nadu, This Respondent is proposing to establish thermal power plants with new technologies replacing the old power plants in order to minimize the pollution level to cope up with the power demand on the basis of sustainable development. Due to such infrastructure development, there will be industrial development in the region. However, this Respondent ensures that all new environmental norms issued by the Ministry of Environment Forest and Climate Change (MoEF & CC), the 1st Respondent herein will be complied by providing all mitigating measures as directed by them.

7. I deny the averments stated in Paragraph Nos. 1 & 2 of the appeal, I humbly submit that the 2nd Respondent has proposed to establish 1x660 MW, ETPS Expansion TPP (previously termed as ETPS Annex) in the vacant land available within the existing ETPS Complex having 40 year old 5 units of 2x60 MW and 3x110 MW totaling to 450 MW at Ernavur Village of Thiruvottiyur Taluk, Thiruvallur District, during 2008 and necessary Environmental Clearance (EC) was obtained on 03.06.2009 after complying with all the procedures of the Ministry of Environment, Forest and Climate Change (MoEF & CC), the 1st Respondent herein, for 1x600 MW and subsequently necessary amendment for super critical technology unit of 1x660 MW was obtained from the 1st Respondent during 2014.

8. I further submit that, initially the tender was called for the 1x600 MW lodged for upgrading the unit to supercritical unit and fresh tender for 1x660 MW super critical unit was called for and the EPC contract awarded to M/s LANCO infrastructure (P) Ltd., during 2014. After making necessary amendment in 2014, the Environmental Clearance was obtained for 5 more years i.e. till 02.06.2019 and the project was commenced in 2014. Subsequently, due to insolvency of the EPC Contractor M/s LANCO infrastructure (P) Ltd., the work was stopped abruptly by the contractor in 2017. The existing ETPS (450 MW) was under operation till 31.03.2017 and decommissioned within the same ETPC complex. Hence the 2nd Respondent had approached the 1st Respondent to obtain Term of Reference (ToR) for the establishment of ETPS Replacement Thermal Power Plant (1x660 MW), another supercritical unit of 1x660 MW after dismantling the exiting 450 MW ETPS during 2016. The ToR was issued in the year 2016 and necessary Comprehensive EIA study was conducted covering 4 operating power plants viz., (i) NCTPS I (3x210 MW), (ii) NCTPS II (2x600 MW), (iii) Vallur TPP (3x500 MW), (iv) ETPS (450 MW) and 4 proposed Power projects viz., (i) Ennore SEZ TPP (2x800 MW), (ii) NCTPP III (1x800 MW), (iii) ETPS Expansion TPP (1x660 MW) and (iv) ETPS Replacement TPP (1x660 MW). Based on the submission in 2018, the 1st Respondent has directed to conduct the following additional studies:

- i. Bio accumulation of plants in the area;
- ii. One season AAQ to ascertain present level of pollutants;

9. I humbly submit that in pursuance to the direction of the 1st Respondent, a study of Bio accumulation was conducted through Centre for advanced study of Biology, Annamalai University and one season AAQ study was again conducted during 2018 and the same are finalized and to be submitted for obtaining Environmental clearance for ETPS Replacement TPP (1x660 MW). In the meantime, the EC issued for ETPS Expansion TPP was expiring after the period of 10 years from the date of its issuance, hence the 1st Respondent was requested to extend the validity of EC for 4 more years to complete the balance works of ETPS Expansion TPP (1x660 MW) as M/s LANCO, the EPC contractor who was declared as insolvent, had completed only 17% of the works till 2017. However, the 1st Respondent has directed the 2nd Respondent to obtain fresh ToR to obtain fresh EC since there was no provision to issue extension of EC beyond 10 years for the ongoing ETPS Expansion TPP(1x660 MW). In compliance to the direction of the 1st Respondent, a fresh ToR was obtained and exemption of Public hearing was also issued by the 1st Respondent on 10.07.2019, since public hearing for the same project was already conducted in the year 2008 itself and public are aware of the project under implementation. The subject project is an ongoing project and not a new one.

10. I deny the averments stated in Paragraph 3 of the appeal, I humbly submit that the 1st Respondent has considered the ongoing ETPS Expansion TPP (1x660 MW) for issue of fresh Environmental clearance once again as there is no provision for extending the existing Environmental Clearance beyond 10 years as per the Environment Impact Assessment (EIA) Notification 2006. Hence, the 1st Respondent has directed the 2nd Respondent to start the process de novo even though 17% of the works were already been completed after obtaining necessary prior Environmental Clearance in the year 2009 by following all statutory procedures including public hearing which was held in the year 2008 for the same project located in the same site.


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11. I humbly submit that due to the issue of insolvency by the EPC contractor, the works were stalled from February 2017 in the subject project. Now it is being awarded to another EPC contractor for re-commencement and completion of the pending works. Therefore, a request was made to the 1st Respondent for exemption of public hearing on the basis that the public hearing for the same project in same location has been already conducted in the vicinity of ETPS Expansion TPP during 2008. Later, another public hearing meeting was also conducted for the proposed ETPS Replacement TPP (1x660 MW) after decommissioning the existing 40 year old ETPS at the same place where previous public hearing was held during 2017 and the public are aware of both projects since they are located within same complex.

12. I humbly submit that the cumulative impact assessment of all power plants including the proposed ETPS Replacement TPP within 10 KM radius from ETPS Expansion TPP has been carried out through an accredited agency of the 1st Respondent and same was submitted to them for obtaining necessary prior Environmental Clearance.

13. I humbly submit the contentions contained in Paragraph 4 & 5 of the appeal are of facts which require no rebuttal.

14. I deny the averments contained in Paragraph 6 of the appeal, I humbly submit that the comprehensive Rapid EIA covering influence of all industries and existing power plants along with the proposed power plants in the Ennore area have been considered while carrying out the EIA study for the proposed ETPS Expansion TPP (1X 660 MW). The EIA study covers the Air quality base line data taken during 2018 for the proposed ETPS Replacement TPP as directed by the 1st Respondent and the base line data for all other impacts have been collected during 2019 in order to complete the cumulative impact EIA study at the earliest, since the validity of data is for 3 years.

15. I deny the averments stated in Paragraph 7 of the appeal, I humbly submit that the public hearing for the ETPS Expansion TPP was conducted on 22.10.2008. Further another public hearing for ETPS Replacement TPP (which is located within the same complex) was also conducted on 2017 covering the comprehensive EIA report taking into account of cumulative impact of all existing and proposed power plant in the subject area. Hence, the 1st Respondent has issued exemption of public hearing for the ongoing ETPS Expansion TPP on 10.07.2019.

16. I deny the averments stated in Paragraph 8 of the appeal, I humbly submit that the 1st Respondent has issued some amendments to the TOR during the Expert Appraisal Committee (EAC) meeting held on 27.03.2019. Further the 2nd respondent has not re-commenced the construction activities after 2017 due to insolvency of the EPC contractor M/s LANCO infrastructure (P) Ltd.,.

17. I humbly submit the contentions contained in Paragraph 9 of the appeal are of facts which require no rebuttal.

18. I deny the averments stated in Paragraph Nos. 10 and 11 of the appeal, I humbly submit that as the necessary public hearing for the ongoing ETPS Expansion TPP was already conducted in 2008 and the project works are stalled due to insolvency by the EPC contractor. As there is no provision for extension of EC beyond 10 years, the proponent has to follow the procedures de novo to obtain the EC for the second time. Therefore the 1st Respondent has granted exemption of public hearing for the ongoing ETPS Expansion TPP on 10.07.2019. Further a comprehensive study covering the cumulative impact of all power plants in the ETPS area was conducted in 2017 for the proposed ETPS Replacement TPP which is within the same complex and public hearing for the ETPS replacement TPP was also conducted in the same complex during 2017. However as per the fresh ToR, a rapid EIA study was conducted covering the cumulative impact of all existing and proposed power plant in ETPS area once again in respect of ongoing ETPS Exp TPP (1 X 660 MW) to approach the 1st Respondent for obtaining EC for the second time in order to speed up the project


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which involves huge investment of public exchequer and the same is of public importance.

19. I deny the averment stated in Paragraph 12 of the appeal, I humbly submit that the public hearing exemption was granted by the 1st Respondent on 10.07.2019 considering the facts submitted by the project proponent i.e., this Respondent. Against which, a Writ Petition in W.P. No. 33351 of 2019 was filed before the Hon'ble Madras High Court, during November, 2019 and the same was dismissed on 27.01.2020.

20. I deny the averments stated in Paragraph Nos. 13 & 14 of the appeal, I humbly submit that a cumulative assessment of all power plants within 10 KM radius from ETPS Expansion TPP (1x660 MW) has been carried out including proposed ETPS Replacement TPP (1x660 MW) through an accredited consultant of the 1st Respondent during 2019 and an exemption of public hearing was granted since public hearing for the same project has been already been conducted during 2008 and another public hearing for ETPS Replacement TPP (1x660 MW) within the same complex was also conducted during 2017 and public are aware of both the projects. Considering the above, the exemption for conducting a public hearing was granted by the 1st Respondent.

21. With regard to averments contained in Paragraph Nos. 15, 16, 17 & 18 are concerned, I humbly submit that necessary public hearing for the subject project was already conducted in 2008 and there is no change in project site. This Respondent has proposed to replace the existing 40 years old Thermal Power Station (450 MW) with a super critical technology power house (1X660 MW) since, Thermal Power Plants are required to maintain the base load of the Grid even though renewable energy sources such as wind mills and solar are supplementing the power requirement seasonally (wind mills during 3 to 4 months and solar in the day time alone).

22. I deny the averments contained in Paragraph 19 of the appeal, I humbly submit that the EIA report was uploaded in the website of the 1st Respondent on 16.08.2019 itself while applying for issuance of Environment Clearance and it is available till date and is accessible to public for viewing. As the public hearing was exempted by the 1st Respondent, the requirement of uploading the EIA report in the website of the Tamil Nadu Pollution Control Board, did not arise as per Clause iii of the EIA Notification 2006.

23. I deny the averment stated in Paragraph 20 of the appeal, I humbly state that there were no other exemptions were granted other than that of conducting a public hearing by the 1st Respondent. I further state that the exemption of public hearing was granted by the 1st Respondent only after conducting a proper assessment. There was neither any other concessions nor violation of law by this Respondent as alleged by the appellant. Therefore the allegation of the appellant is false and baseless.

24. I deny the averments contained in Paragraph 21 of the appeal, I humbly submit that as the base line AIQ data collected in the year 2018 covers the impact of all existing industries in and around 10 Kms radius from both ETPS Expansion TPP and ETPS Replacement TPP which are located adjacent to each other within the ETPS complex and all other data were again collected in 2019 by the accredited consultant M/s Ramky Enviro Services (P) Ltd, Hyderabad and a cumulative rapid EIA / EMP report considering all existing and proposed power plants was prepared and submitted to the 1st Respondent for the issuance of EC. The allegation of the appellant that the original baseline air quality data presented before the 1st Respondent are fraudulent, is a baseless allegation.

25. I deny the averments stated in Paragraph Nos. 22 & 23 of the appeal, I humbly submit that the proposed ETPS Exp TPP was conceived during 2008 while the old ETPS 450 MW was under operation, hence it was considered as Expansion power project and necessary prior EC for the captioned project was issued by the 1st


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Respondent on 03.06.2019. After that the old ETPS 450 MW was De-commissioned on 31.03.2017. Further, a rapid EIA report covering **cumulative** impact of 4 operating power plants viz., (i) NCTPS I (3x210 MW), ii) NCTPS II (2x600 MW), (iii) Vallur TPP (3x500 MW), (iv) ETPS (450 MW - De commissioned on 31.03.2017) and 4 proposed Power projects viz., (i) Ennore SEZ TPP (2x800 MW), (ii) NCTPP III (1x800 MW), (iii) ETPS Expansion TPP (1x660 MW) and (iv) ETPS Replacement TPP (1x660 MW) in the year 2019 prepared by accredited consultant M/s Ramky Enviro Services (P) Ltd, Hyderabad and based on the EIA report, the 1st Respondent has considered and issued the impugned Environmental Clearance.

26. I deny the averments stated in Paragraph 24 of the appeal, I humbly submit that as per the EIA and EMP report the emission limits are within the norms by adopting the controlling measures such as FGD, SCR and additional ESP etc., proposed in the ongoing power projects and existing power plants, as mandated in the Emissions Standards issued by the 1st Respondent.

27. I deny the averments stated in Paragraph 25 of the appeal, I humbly submit that this Respondent has taken all the efforts and steps to bring the ETPS Expansion TPP (1 X 660 MW) into beneficial use of the public considering the public exchequer already invested in the subject project in the tune of more than Rs.700 Cr. The project is being implemented after obtaining the fresh ToR and latest studies conducted to ascertain the present pollution level of the ETPS area and on receipt of fresh EC. After considering the cumulative impact of all Power plants incorporated in the EIA / EMP report and other studies carries out repeatedly to comply procedure of obtaining fresh Environmental clearance once again, the 1st Respondent has issued the clearance by exempting new public hearing. The 2nd Respondent had carried out the construction works of the captioned power project and foreshore facilities after obtaining proper EC and CRZ clearance in 2008 and 2009 respectively after complying with all statutory and mandatory conditions stipulated in the clearances.


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28. I deny the averments stated in Paragraph 26 of the appeal, I humbly submit that the 1st Respondent has considered the plea of the 2nd respondent based on the provisions of EIA Notification 2006.

29. I deny the averments stated in Paragraph 27 of the appeal, I humbly submit that the appellant's claim is unjustifiable and fresh EC is sought to re-commence the project activities in order to meet out the power demand of the State of Tamil Nadu.

30. I humbly submit that Coal based Thermal power stations are base load stations operated all through 24 hours a day in order to maintain the required grid stability as the renewable energy sources such as Hydro, Solar and wind Energy are seasonal and uncertain in nature. The renewable energy will support the state power system when only available, Such as Solar Energy only in day time, Hydro Energy only in monsoon and Wind Energy during windy season. Hence the base load stations such as Thermal power stations are important to support stable power supply to this State. The 2nd respondent assures that all conditions of EC and CRZ clearance will be complied scrupulously.

31. I humbly submit that the proposal has been considered by EAC during two meetings and their observations are also replied for this ongoing ETPS Expansion TPP (1x660 MW) and that 17% of the works have been already completed and the project has to be recommenced through new EPC contract on receipt of EC and CRZ clearances subsequently.

32. I humbly submit that the appellant with an ill intention to stall the major project of this respondent, has filed the present appeal and the same is an abuse of process of law. Further, he is not entitled to any relief as claimed in the present appeal. In any case, the larger public interest is more important than the private vested interest of certain individuals.


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Under the above circumstances, I humbly pray that this Hon'ble Tribunal may be pleased to dismiss the above appeal as not maintainable and devoid of merits and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 7th day of October, 2020

VERIFICATION


2ND RESPONDENT
Chief Engineer/Projects-I
TANGEDCO
144, Annasalai, Chennai-600 002

I, B.Bertrand Russell, Son of Thiru. Bhuvanaraghan, aged 58 years, working as Chief Engineer / Projects-I / Chennai in Tamil Nadu Generation and Distribution Corporation Ltd., having office at TNEB Headquarters, 144, Anna Salai, Chennai-600 002, do hereby verify that the contents of Paragraph Nos. 1 to 32 are true to the best of my knowledge and Paragraph Nos. 1 to 32 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 7th day of October, 2020


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