

BEFORE THE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE CHENNAI

Application No. 64 of 2022

IN THE MATTER OF:

R. Meerakani,  
S/o. M. RasavuMohideen,  
Aged about 55 years,  
No. 6/1/93, Achanputhur, Kadayanallur Taluk,  
Tenkasi District,  
Phone: 9566254546  
Email : yogeshwaranadv@gmail.com

... Appellant

Vs

1. Union of India,  
Represented by its Secretary,  
The Ministry of Environment, Forests and Climate Change,  
Jorbagh, New Delhi  
Email :secy-moef[at]nic[dot]in,  
Phone : +91-11-24695262

2. The National Highways Authority of India,  
Rep by its Regional Officer / Project Director,  
No. 1, Lake area, Melur Main Road, Mattuthavani,  
Email :nhairomadurai@gmail.com,  
Phone : 0452-2588999

... Respondents

**ADDITIONAL REPLY OF THE 2<sup>ND</sup> RESPONDENT ON THE REJOINER**  
**FILED BY APPLICANT**

I, T.Velraj son of Shri. Thangavel aged 40 Years, presently working as Project Director, National Highways Authority of India and Presently having office at No. 395/3-1, M.S.Road, Majestic Colony, Near Ayyappan Kovil, Parvathipuram, Nagercoil-629003, do hereby solemnly affirm and sincerely state as follows:

1. It is respectfully submitted that the contents of the Rejoinder filed by the Applicant have been read, understood and deny the contents of the same except

  
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expressly admitted hereunder. The following parawise remarks on the rejoinder are tendered.

2. In response to the para 2 & 3, it is respectfully submitted that the main allegation of the Applicant in the Original Application is the 2<sup>nd</sup> Respondent have not obtained the Environmental Clearance for the project four laning of Rajapalayam to Shencottai section of NH-744. The same have been suitably replied in line with the prevailing EIA notification of the MoEF&CC in detail.

3. In response to Para 4 & 5, it is respectfully submitted that the brief history and action taken on the project execution has been explored in the Counter affidavit. The alignment has been finalized after examining the technical feasibilities including detailed assessment of Environmental Impacts by the technical experts in the particulars department through the agency appointed for preparation of Feasibility Report and Detailed Project Report (DPR). Further the applicant has also raised objections on the present project alignment at various levels by suggesting an alternate alignment which may be mainly due to avoid applicant's own land in survey numbers 330/1, 330/2, 330/3, 330/4, 330/5 & 330/6 of Achanputhur village of Kadayanallur Taluk, Tenkasi District, from acquisition under National Highway Act, 1956, for public purpose i.e. four laning of Rajapalayam to Shencottai section of NH-744, which is an important highway project, connecting Tamilnadu with Kerala. The alternate alignment suggested by the applicant has been examined and verified by the Committee headed by the District Collector, Tenkasi which was is-constituted by the Government of Tamil Nadu and concluded that the alignment suggested by the applicant is technically not feasible since it involves huge acquisition of wetlands, water bodies, urban areas, etc., Accordingly, the committee recommended that the alignment already proposed by NHAI may be implemented and based on the recommendation of

the committee, the concurrence from the Govt. of Tamil Nadu has been accorded on 27.01.2022, to implement the project of formation four laning of Rajapalayam to Shengottai section of NH-744 with the alignment already proposed by NHAI.

4. In response to the para 6, the road widening projects involves various steps for implementation such as Preparation of Detailed Project Report, Alignment Finalization, Land Acquisition Committee approval, Acquisition of Land under National Highways Act, 1956, Financial Approval, Bidding Process, Award of Project, etc. and all the projects could not be taken up as a single project by the Government of India considering the activities involved in the project execution and financial requirement and also the capacity of contractors/ concessionaire's potential and capacity. of the projects. Every National Highway must have huge length and to ensure the smooth execution / maintenance / operation of the National Highway, the same will be segmented into various partitions. For example, the New National Highways No. 44 is starting from Srinagar (Jammu & Kashmir) and terminates at Kanyakumari having total length of 3700 km in 12 States. Even it cannot be imagined to carry out the widening / maintenance / operation without any segmentation. the National Highway No. 744 is also having total length of 206 km in Tamil Nadu and Kerala States. It is very difficult to execute the project without any segmentation since its implementation involves various steps and huge financial investment and concurrence of the District Collectors, their recommendation and approval of the State Governments. (in the instant acquisition, if not segmented two State Governments are involved in finalizing the alignment). The segmentation of National Highway is very common to ensure the smooth execution / maintenance / timely operation of the National Highway and not illegal as stated by the applicant.

  
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5. Further, it is respectfully submitted that the amendment in EIA notification dated 22.08.2013 was stated as follows:

*"And whereas the Government of India in the Ministry of Environment and Forests had constituted a High Level Committee under the Chairmanship of Member (Environment and Forests and Science and Technology), Planning Commission, vide OM No.21-270/2008-IA.III dated the 11th December, 2012 to review the provisions of Environmental Impact Assessment Notification, 2006 relating to granting Environmental Clearances for Roads, Buildings and Special Economic Zone projects and provisions under the OM dated the 7th February, 2012 issued by the Ministry of Environment and Forests regarding guidelines for High Rise Buildings;*

*And whereas one of the terms of reference (ToR) of the Committee was to review the requirement of Environmental Clearance for highway expansion projects upto the right of way of 60 meters and length of 200 kms under Environmental Impact Assessment notification;*

*And whereas the Committee has submitted its report to the Ministry and on this ToR, the Committee has recommended exempting highway expansion projects from the requirement of scoping and that Environmental Impact Assessment or Environment Management Plan for highway expansion projects may be prepared on the basis of model ToRs to be posted on Ministry's website and in respect of requirement of environmental clearance, the Committee has recommended that expansion of National Highway projects up to 100 kms involving additional right of way or land acquisition upto 40 mts on existing*

*alignments and 60 mts on re-alignments or by-passes may be exempted from the preview of the notification;*

*And whereas the report of the Committee has been examined in the Ministry of Environment and Forests. Earlier, vide notification S.O.3067(E), dated the 1st December 2009 all State Highway expansion projects, except those in hilly terrain (above 1000 m AMSL) and ecologically sensitive areas, have already been exempted from the purview of the Environmental Impact Assessment notification, 2006."*

6. Further, in Schedule Item 7 (f) in column (3) it stated that:

*"expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes".*

From the above, it is very clear that the exemption is given for speedy implementation of the Highways Projects involving the length less than 100 km and additional right of way 40 meters on existing alignments and 60 meters on realignments.

7. In response to para 7, it is respectfully submitted that the National Highway No. 744 is already declared as National Highway under section 2 of National Highways Act, 1956. It cannot be considered as new National Highway and the applicant wantonly misleading the Hon'ble Tribunal. The applicant has not provided any documentary evidence indicating that the NH-744 is not comes under the category of National Highway as per the EIA Notification, 2006. Further, the applicant wantonly distracting the Hon'ble Tribunal by stating

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irrelevant clause of EIA Notification, which is not at all applicable in this present case. It is very clear that the prior Environmental Clearance is required only for the project activities listed in the Schedule. In Schedule Item 7 (f) in column (3) of the amended notification dated 22.08.2013 stated as:

*"Expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes".*

8. In response to para 8 & 10, it is respectfully submitted that the segmentation of National Highway is very common to ensure the smooth execution / maintenance / timely operation of the National Highway and not illegal as stated by the applicant. The EIA Notification dated 22.08.2013 was finalized based on the recommendation of the High-Level Committee appointment of Ministry of Environmental, Forests and Climate Change, under the Chairmanship of Member (Environment and Forests and Science and Technology), Planning Commission, after careful examination of all relevant factors including the environmental protection as well as infrastructural developments. Further, there is no ambiguity in the provision of the Item 7 (f) in column (3) to the EIA Notification dated 14.09.2006 as amended by notification dated 22.08.2013, as it gives no scope for any doubt. The distance of 100 km is important as expansion of National Highways below 100 km needs no prior environmental clearance. Further, in the subject project, 45m is the proposed Right of Way i.e. additional Right of Way is less than 30m in existing road and 45m in new alignment/bypass. The four laning project proposed for Rajapalayam to Shencottai section of NH-744 which is only 68.284 km length.

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9. In response to Para 9, it is respectfully submitted that the National Highway No. 744 is already declared as National Highway under section 2 of National Highways Act, 1956 for widening. It cannot be considered as new National Highway just because at some stretch it passes through some new stretch, and the applicant wontedly misleading the Hon'ble Tribunal to protect his own land from the acquisition.

10. In response to para 11, it is respectfully submitted that the land has been acquired with the Right of Way of 45m only i.e. additional Right of Way is less than 30m in existing road and 45m in new alignment/bypass. However, in certain places additional lands have been acquired for Toll Plaza, Junction Improvements, Wayside Amenities and others. Apart from the Gazette notification the applicant have submitted certain unsigned land records and drawings by claiming alignment plan for the project. However, these old land records & drawing which were illicitly collected by applicant may be ignored by this Hon'ble Tribunal, as these drawings are not authentic.

11. In response to para 12 & 13, it is respectfully submitted that the National Highway No. 744 is already declared as National Highway under section 2 of National Highways Act, 1956 and it cannot be considered as new National Highway. Since the existing road width is 7 to 10m, the same is proposed to be widened to cater the present and future traffic volume with suitable bypass / new alignment as per the specification and standards. There is no ambiguity in the above provision as it gives no scope for any doubt. It is clearly stated that expansion of National Highways projects below 100 km need not require prior environmental clearance. The applicant wontedly misleading the Hon'ble Tribunal mainly to protect his own land from the acquisition.

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12. Recently similar issue of segmentation of the highways project and alleged piecemeal execution was raised in OA No 241 of 2020 (Mohammed Jishar and 2 others Vs UOI and others). This Hon'ble Tribunal had constituted joint committee, consisting of experts to look into the aforesaid allegation and to submit a report. After detailed examination, the Joint Committee had submitted its report holding, there is no impediment in executing the subject project by referring and relying on the decision of the Hon'ble Supreme Court made in NHA1 Vs PandarinathanGovindarajulu (2021) 6 SCC 693) The Hon'ble Supreme Court also, in the ibid Judgement while setting aside the judgment (DB) of Hon'ble Madras High Court didn't restrain the NHA1 from executing the project. It is pertinent to point out that this Hon'ble Tribunal, after examining all the issues had vide order dated 25.05.2022 dismissed the OA 241/2020 (SZ) with few directions. The following is the conclusion of this Hon'ble Tribunal.

"25. We feel, that the application can be disposed of with following directions:

- (i) The applicant is not entitled to get any of the reliefs claimed as per the law stands today and considering the nature of project envisaged by the National Highways Authority of India (NHA1), there is no necessity to get any prior Environmental Clearance (EC) for the project in view of the decision of the Hon'ble Apex Court in "The National Highways Authority of India vs. PandarinathanGovindarajulu & Others" (2021)6 SCC 693.
- ii) National Highways Authority of India (NHA1) is directed to carry out the recommendations made by the Joint Committee while executing the project in its letter and spirit."

  
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Therefore, in view of the decision of this Hon'ble Bench, the instant OA also liable to be dismissed. Any restriction on the execution of the project would be denying the people's entitlement to have safer, quicker and economical travel and also to arrest the fatal accidents/ deaths which are occurring due to heavy vehicular traffic in the existing narrow National Highways. The NHAI would always accept and implement any mitigating suggestions while implementing the Highway projects as NHAI also very keen in preserving the environment and ecology. At the same time, due to vast changes taking place in economical and infrastructural development across the globe, this Country also needs to compete them in every aspect and primarily the wider National Highways would facilitate other developmental activities.

13. This respondent reserves the right to file detailed / additional reply as and when need arises.

Hence it is prayed that this Hon'ble Tribunal may be pleased to dismiss the above application as devoid of merits and also vacate status quo order dated 18.10.2021 and thus render justice.

Solemnly affirmed at Chennai on this 22 day of November 2022 and signed his name in my presence

*T. Y. Raj*  
PROJECT DIRECTOR  
NHAI, PIU, Nagercoil  
BEFORE ME

*B. Y. Raj*  
65 23/2021 No 95,  
Addl. L.C. n.H.C, Chennai.

ADVOCATE, CHENNAI

**BEFORE THE NATIONAL GREEN  
TRIBUNAL,  
SOUTHERN ZONE CHENNAI**

**Application No. 64 of 2022**

R. Meerakani Appellant

Vs

Union of India,  
Rep. by its Secretary,  
The Ministry of Environment, Forests and  
Climate Change,  
New Delhi.  
And another. Respondents

**ADDITIONAL REPLY OF THE 2<sup>ND</sup>  
RESPONDENT ON THE EJOINDER  
FILED BY APPLICANT**

**Su.SRINIVASAN**

Standing Counsel, NHA

Counsel for 2<sup>nd</sup> Respondent