

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI BENCH**

IN

ORIGINAL APPLICATION NO. 64 OF 2022

IN THE MATTER OF:

R. Meerakani

...Applicants

Vs.

Union of India & Ors.

...Respondents

**Counter Affidavit On Behalf of Ministry of Environment, Forest and
Climate Change (Respondent No.1)**

IT IS MOST RESPECTFULLY SHOWETH:

I, Dr.R.Sridhar, S/o. P.Rengarajan, aged 41 years, resident of Flat 3D, Claritus Anika Apartment, Kazhipattur, OMR, Chennai-603103 do hereby solemnly affirm and state as under :-

1. That I am working as Scientist 'D' in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office, Chennai
2. That I am fully conversant with the facts and circumstances of the case from records maintained in the office. I have read and understood the contents of the petition thereof and as such authorized and competent to swear the present affidavit.


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3. I submit that I deny all the allegations/averments mentioned in the present Application filed by the Applicant except those that are specifically admitted in the Counter Affidavit filed.
4. That the Applicant herein has alleged that the National Highways Authority of India (NHAI) has proposed construction of a four-laning of the existing 5m to 10m wide road notified as NH-744, which runs from Thirumangalam in Tamil Nadu to Kollam in Kerala for a total length of 231 KM without prior Environment Clearance from the answering Respondent under the EIA Notification, 2006.
5. The Applicant has further contended that the subject road was notified as a National Highway, which is a highway only in name and not a highway constructed with Clearance under the EIA Notification, 2006.
6. That in this regard, the answering Respondent respectfully submits that under clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (hereinafter referred to as the "1986 Act"), the Central Government has the power to make rules for carrying out the purposes of the said Act. While exercising the powers conferred by the 1986 Act, the Ministry had issued the Environment Impact Assessment (EIA) Notification vide S.O.60 (E) dated 27th January, 1994 mandating 32 categories of projects

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listed in 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.

7. It is humbly submitted that under the 1986 Act 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 the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27th January, 1994.
8. It is further submitted that under the provisions of the EIA Notification, 2006, all new projects or activities listed in the Schedule to the EIA Notification, 2006 or the expansion/modernization of existing projects/activities listed in the said Schedule with addition of capacity beyond the limits specified for the concerned sector, i.e., 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


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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 1986 Act in accordance with the procedure specified in the EIA Notification, 2006, duly constitutes SEIAA in the States.

9. It is most respectfully submitted that under the Schedule to the EIA Notification, 2006 relating to the list of activities requiring prior Environmental Clearance, the Highways are covered under entry 7(f) of clause (7) of the said Schedule, the relevant portion of which is reproduced below:-

	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
7		Physical Infrastructure including Environmental Services		
7(f)	Highways	i) New National Highways; and ii) Expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignment and 60 m on re-alignment	i) All New State High ways projects; ii) State Highway expansion projects in hilly terrain (above 1000 m AMSL) and/or ecologically	General Condition shall apply <u>Note:</u> Highways include Expressways

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		or by-passes	sensitive areas	
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10. It is respectfully submitted that, it is contended by the Applicant that the National Highway in question was a pre-existing road, which was notified as a State Highway and was thereafter notified as a National Highway by the Ministry of Road Transport and Highways.

11. It is respectfully submitted that prior Environment Clearance would be required if the proposed expansion involves more than 100 km of length and additional right of way (RoW) or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes. It is further submitted that as per EIA Notification, 2006, only such project that meets both the conditions, i.e., threshold length of the highway and envisaged expansion width (RoW or land acquisition) of the highway, would require a prior Environment Clearance from the answering Respondent.

12. Therefore, in view of the above, it is prayed that this Hon'ble Tribunal may take on record and consider above submissions and dismiss the present Application or pass any other appropriate order,



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which the answering respondent shall duly comply with and thus render justice.

13. The answering Respondent craves liberty to file additional information, if any, till pendente lite.



DEPONENT

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VERIFICATION

I, Dr. R. Sridhar. Scientist 'D' the aforementioned Deponent do hereby declare on this 18th day of November at Chennai that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.



DEPONENT

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