

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

O.A. No. 72 OF 2022 (SZ)

IN THE MATTER OF :

Meenava Thanthai K.R.Selvaraj

Kumar Meenavar NalaSangam

...Applicant

-Vs-

Union of India,

Ministry of Environment, Forest

and Climate Change (MoEF& CC)

...Respondent

REPLY ON BEHALF OF THE RESPONDENT TO THE REJOINDER FILED
BY THE APPLICANT

I, Dr.R. Sridhar, son of P . Rengarajan, Hindu, aged about 43 years working as Scientist 'D' in Integrated Regional Office of the Ministry of Environment, Forest and Climate Change at Chennai do hereby solemnly affirm and sincerely state as follows:-



**Dr. R. Sridhar,
Scientist 'D'**

Government of India

Min. of Environment Forest and Climate Change
Integrated Regional Office
1st Floor, Additional Office Block for GPOA,
Shastri Bhawan, Haddows Road
Nungambakkam, Chennai - 600 006.

1. I am filing this affidavit on behalf of the Respondent and I am duly authorized and competent to swear the same. I am well aware of the facts of the case.

2. I have perused the averments made by the Applicant in their rejoinder. I reiterate the averments made by the Respondent in the counter affidavit and crave leave to treat the present affidavit as part and parcel of the counter -statement filed by the Respondent.

3. The Respondent reiterates at the outset that the EIA Notification already provides time-lines for all Environmental Clearance (EC) processes and the rating criteria does not seek to change any process or timeline as already provided in the EIA,2006. It is submitted that the quality of the EIA report will not be compromised due to the ranking system as the EIA reports are prepared as per the prescribed terms of reference and projects are appraised on the same.

4. With regard to the averments in 1 to 5, the Respondent is not commenting on the same as they merely illustrate the case and facts averred by this Respondent.



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5. With regard to the averments in para 6, it is submitted that the issue of whether the NGT has jurisdiction to set aside a subordinate legislation is already sub-judice before the Hon'ble Supreme Court in C.A. No.2522 of 2018, titled Union of India vs Society for Protection of Environment and Biodiversity. Further, the Hon'ble Supreme Court vide judgement dated 22.09.2017 in Civil Appeal No. 1359 of 2017 titled Techi Tagi Tara vs Rajendra Singh Bhandari, has held that there must be a substantial question relating to the environment and that question must arise in a dispute. The Supreme court has clearly held that "it should not be an academic question". It is therefore clear that no power has been given to the Hon'ble NGT under Sec14 and 15 of the NGT Act, 2010 to interfere in the administrative activities of the Central Government or to exercise supervision and control in a particular manner.
6. With regard to the averments in para 7 & 8, the Applicant has discoursed several case laws and the same are not applicable to the present case. It is reiterated that the impugned order is an administrative action of the Respondent and warrants no inference from this Hon'ble court. There is no environmental dispute in the present case which will attract the jurisdiction of this Hon'ble Tribunal.
7. With regard to the averments in para 9, it is once again reiterated that the impugned order would come under the administrative activity of the Respondent and there is no environmental dispute as such to bring it under the purview of the Hon'ble NGT.



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- 8. With regard to the averments in para 10, it is submitted that the Hon'ble NGT vide Order dated 14/09/2022 has held that impugned OM is an administrative order. Further, as already pointed out in the Counter, the Respondent under its supervisory and controlling powers are empowered to issue administrative orders to encourage SEIAAs to adhere to the timelines prescribed in the EIA Notification 2006, while discharging its functions. It is also once again submitted that the impugned OM has been issued strictly as per the provisions of the EIA,2006.

- 9. The averments in para 11 are matters of fact and the Respondent is not commenting on the same.

- 10. With regard to the averments in para 12 to 15, it has already been submitted by this Respondent that the ranking system is strictly in compliance of the provisions of the EIA Notification. The rationale behind the introduction of timelines has also been clearly explained in the counter filed by this Respondent. It is reiterated that the timelines have been introduced to encourage the project proponents to submit their proposal in a systematic way to avoid undue delay in taking decisions. Such system only increases the accountability of the Respondent as well as the project proponents

- 11. With regard to the averments in para 16 to 18, it is submitted that the impugned OM is not contrary to any statutory provision. As already stated in the counter affidavit the Respondent has issued the impugned OM strictly in compliance of the provisions of the EIA,2006.

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- 15. With regard to the averments in para 26 to 30, it is submitted that the Respondent has issued the Impugned OM only after due diligence and to encourage the efficiency and accountability of SEIAAs so that the timelines are broadly adhered to.
- 16. The Respondent thus submits that the impugned OM has been strictly issued as per the provisions of the EIA Notification, 2006 and the rating system is a dynamic process based on performance. The Respondent has highest regards for law and constantly acts in a prudent manner. The case of the Applicant is built on speculations and suppositions. There is no dispute or environmental issues as such which warrants interference by this Hon'ble Tribunal. The Respondent has issued the impugned OM as a step to encourage efficiency, transparency, efficiency and accountability in the functioning of SEIAAs.

In view of the above, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the above application and render justice,

Solemnly affirmed and signed



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 Min. of Environment Forest and Climate Change
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 Nungambakkam, Chennai - 600 006.
 Before me

his name in my presence on

this the 2nd day of May 2023

Kuppuraaj Rahul . P
 4085 / 2022.

Advocate, Chennai

(Faint mirrored text from the reverse side of the page)
 DR. R. SRIDHAR
 Scientist 'D'
 Government of India
 Min. of Environment Forest and Climate Change
 Integrated Regional Office
 1st Floor, Additional Office Block for GPOA,
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12. With regard to the averments in para 19 and 20, it is submitted that the Applicant has again discussed case laws and the same are not relevant for the present as the Respondent has already explained that the administrative actions of the Respondent will not fall under environmental disputes to attract the jurisdiction of this Hon'ble Tribunal. The averments in para 21 are again factual and the Respondent do not have any comments to offer.

13. The averments in para 22 are all denied as hypothetical and speculative. It is reiterated that the timelines have been introduced only to avoid unnecessary delays and for ensuring compliance with the provisions of EIA, 2006. The Respondent further submits that the impugned OM in no way introduces any penalty of negative marking where special circumstances necessitate further examination of the project, which may cause delay.

14. With regard to the averments in para 23 to 25, the Respondent submits that the EIA Notification clearly provides that Appraisal means detailed scrutiny by the EAC or SEAC of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant for grant of EC. It is further submitted that appraisal of projects which are not required to undergo public consultation shall be based on Form 1/1A, any other relevant validated information available and the site visit wherever the same is considered as necessary by the EAC/SEAC. Therefore, this criteria has been added to discourage unnecessary site visits. However, again there is no negative marking proposed for taking more site visits than prescribed for getting positive marking.



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TRIBUNALSOUTHERN ZONE BENCH

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R.A.
M/s.R.THIRUNAVUKARASU

Counsel for the Respondent

(MOEFF &CC)

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