

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

O A.No.07 of 2022(SZ)

Meenava Thanthai K.R.Selvaraj kumar,
Meenavar Nala Sangam
Rep by its President
M.R.Thiyagarajan
At No.15/8, A J Colony
Royapuram, Chennai-600 013

--- Applicant

-Vs-

Tamil Nadu State Environment Impact Assessment Authority
Through the chairman
3rd floor, Panagal Maligai
No.1, Jeenis Road, Saidapet,, Chennai-600 015
Tamil Nadu and 3 others

--- Respondents

REPLY & DOCUMENTS FILED BY THE 4TH RESPONDENT

M/s B.RADHAKRISHNAN

& K.SIVASUBRAMANIAN

COUNSEL FOR 4TH RESPONDENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE BENCH AT CHENNAI

Original Application No. 07 of 2022 (SZ)

MEENA VA THANTHAI K.R.SELVARAJ KUMAR

MEENAVAR NALA SANGAM

Represented by its President,

M. R.Thiyagarajan,

Office at No.15/8, A.J. Colony,

Royapuram, Chennai-600 013.

... Applicant

Versus

**1. TAMIL NADU STATE ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY**

Through the Chairman

3'd Floor, Pangal Maligai,

No.1 Jeenis Road, Saidapet, Chennai-600 015.

Tamil Nadu.

2. TAMIL NADU POLLUTION CONTROL BOARD,

Through the Chairman,

76, Mount Salai,

Guindy, Chennai - 600 035

3. THE DISTRICT COLLECTOR,

Thiruvallur District,

Master Plan Complex NH 205,

Chennai - Tiruttani Highway ,

Thiruvallur, Tamil Nadu 602001.

4. ACS MEDICAL COLLEGE AND HOSPITAL

Through the President,

Numbal Village,

Ponnbmallee Taluk,

Thiruvallur District

Tamil Nadu. 600077.

... Respondents

REPLY STATEMENT FILED ON BEHALF OF THE 4thRESPONDENT

The 4th Respondent submits as follows:

1. The 4th Respondent is A.C.S. Medical College & Hospital, Rep. by its Registrar, Dr.C.B.Palanivelu having office at Noombal Village, Velappanchavadi, Chennai – 600 077. The address of service of all notices and processes on the 4th Respondent is that of their counsels M/s B.RADHAKRISHNAN and K.SIVASUBRAMANIAN having office at No.75, Law chambers High court Buildings Chennai-600 104 and E mail address is brkrishlaw@gmail.com.
2. The 4th Respondent denies all the allegations and grounds raised in the application except those that may be specifically admitted to hereunder. Any averments made herein which is inconsistent with or contrary to the averments in the application is deemed to be denial of the averments in the application.
3. At the outset, it is submitted that the present application is not maintainable either in law or on facts and the same is liable to be dismissed in limine. The present application is devoid of any merit. The applicant is not an aggrieved party and does not fall under any of the sub clauses mentioned under Section 18 (2) of the National Green Tribunal Act, 2010. The Applicant has no locus standi to file the present application. Further, there is no substantial question of law involved in the present application as per section 14(1) of NGT

Act. The 4th Respondent suspects that the present application is filed with ulterior motives. Further, the applicant is situated at Royapuram whereas the 4th Respondent is situated at Noombal Village, near Thiruverkadu Poonamallee High Road which is far off from petitioner's place. Therefore, the applicant is in no way connected to the 4th Respondent and its locale.

4. The Applicant claims to be a registered society working towards the welfare of the fishermen, as evident from the bye laws containing the objects of the Applicant. The allegations in the application transcend the objects and scope of the Applicant. Further, the authorized signatory does not have proper authorization to file the present application. The authorization dated 26.04.2016 submitted as Annexure A1 along with the Application is not valid in the eyes of law. As per Section 15(4) of the Tamil Nadu Societies Registration Act 1975 and as per sub clause 5 of Clause N of the Bye-law of the Applicant, the term of office bearers is 3 years. Therefore, the copy of the Form No.7 dated 26.04.2016 has no legal effect as on date.
5. The present application has been filed beyond the period of limitation stipulated under Sec.14 (3) of the National Green Tribunal (NGT) Act, 2010. This respondent college is running for more than ten years. Mere recent application under RTI Act as per their whimsies do not save the limitation purpose. The application

deserves to be dismissed on this sole ground. The application is devoid of reasons to bring it within limitation.

6. The 4th Respondent is a Medical College and Hospital affiliated with Dr. M.G.R. Educational & Research Institute (Deemed to be University). The 4th Respondent applied for Consent for Establishment vide application dated 26.11.2007 to 2nd Respondent i.e. Tamil Nadu Pollution Control Board (hereinafter 'TNPCB') and obtained the same vide Consent Order No.4324 dated 14.02.2008 under Water (Prevention and Control of Pollution) Act, 1974 and Consent Order No.4268 dated 14.02.2008 under Air (Prevention and Control of Pollution) Act, 1981. Subsequently, the 4th Respondent submitted its application dated 25.03.2009 seeking Environmental Clearance (EC) to the 1st Respondent Tamil Nadu State Environment Impact Assessment Authority (hereinafter 'TN SEIAA') bearing file no. F.226/2009. Thereafter, the matter has been pending with TN SEIAA without any progress. The 4th Respondent 's application for EC is pending with authorities as evident from the various Minutes of meetings held in this regard. Then, the proposal sent to the Central Government through TN SEIAA was returned to TN SEIAA for its disposal at the State Level itself. The same was communicated to the 4th Respondent vide communication bearing Letter No. SEIAA-TN/F.226/2016/NGT/dated 28.03.2018. The said letter also directed the 4th Respondent to submit a fresh online application.

The 4th Respondent submitted the online application on 12.04.2018 bearing reference no. SIA/TN/NCP/24686/2018. On 11.07.2018, application for Terms of Reference (ToR) under violation was submitted to TN SEIAA. TN SEIAA vide Letter No. SEIAA/TN/F.No.226/2018 dated 13.03.2019 directed the 4th Respondent to furnish certain additional details. The 4th Respondent vide letter dated 02.05.2019 provided the requisite details to TN SEIAA. TN SEIAA issued Terms of Reference vide letter No. SEIAA-TN/F.No.226/Violation/ToR-821/2020 dated 23.11.2020. The 4th Respondent vide letter dated 23.08.2021 informed TN SEIAA about completion of Environment Impact Assessment study and compliance with the conditions mentioned in the Terms of Reference. The 4th Respondent through the above letter submitted the application forms along with EIA report and other annexures for obtaining Environmental Clearance. Thereafter, TN SEIAA sought additional details. The same was furnished vide letter dated 16.10.2021. It is pertinent to state that the tenure of the then state committee expired and new committee was formed by Central Government vide Gazette notification SO 146 (E) dated 11th January 2022. As per the recent meeting of SEAC-TN held on 18-2-2022 vide Agenda No.247-08 of minutes and its letter dated 21-4-2022 in which appointed sub committee for site inspection, the 4th respondent's application for EC is still pending consideration with SEAC-TN.

It is also to be submitted that without EC, the consent for operation cannot be issued by the TNPCB. It is pertinent to submit that as per Notification No.S.O.5736 (E) dated 15-9-2018 issued by the Ministry of Environment ,Forest and Climate Change this respondent is not at all required to get EC for their hospital, hostel and Medical college of educational institutions.

Parawise Denial

7. The averments in para 1 and 2 of the Application are matter of record and needs no traversal.
8. The averments in para 3 of Application are denied as false. The 4th Respondent had even before receiving the Letter of Permission dated 04.07.2008 to establish new Medical College and Hospital at Chennai from the Ministry of Health and Family Welfare had obtained a Consent to Establish dated 14.02.2008 from the Tamilnadu Pollution Control Board(TNPCB). Further on 25.03.2009, the 4th Respondent had submitted Form I with EIA report to the State Level Environmental Impact Assessment Authority seeking Environmental Clearance. As on date the EC clearance application of the 4th Respondent is pending with TN SEIAA. The 4th Respondent had entered into an agreement on yearly basis with M/s. TamilNadu Waste Management Ltd., which is an approved private agent of Tamil Nadu Pollution Control Board to handle bio wastes and bio medical wastes. Further, it is also submitted that the 4th Respondent's premises has a draináge

system along with Effluent Treatment Plants(ETPs) and Sewage Treatment Plants(STPs) of suitable capacity and there has been no such illegal discharge of effluents as alleged by the applicant. In this regard as advised by SEIAA-TN ,a study and report after inspection was filed by the Anna university Experts to the SEIAA-TN.

9. The averments in para 4 of the Memorandum of Application are denied as false. The 4th Respondent has constructed the Medical College and Hospital on its patta lands in survey Nos.35/1,35/2,35/3,63/2,64/1A,64/1B of Noombal village, Poonamallee Taluk, Thiruvallur District bearing patta nos.283, 284 and 3273. A bare perusal of the patta shows that there has been no encroachment into any designated tanks or water bodies. Upon perusal of the No Objection Certificate issued by Revenue authorities would clearly show that there is no water body been encroached by the 4th Respondent. The 4th Respondent states that the land on which the college and hospital situates are patta lands only.
10. The 4th Respondent had obtained the Consent to Establish from TNPCB dated 14.02.2008 post which from the year 2010 to 2014 there were several guidelines issued by the Ministry of Environment, Forests and Climate Change with least clarity with respect to requirement of obtaining the EC and Consent to Operate

(CTO) for the Medical College and Hospital. The Ministry of Environment, Forests and Climate Change through an 'Office Memorandum' dated 09.06.2015 clarified regarding its Gazette Notification No.S.O.3252 (E) dated 22.12.2014, wherein it was clarified that the exemption to obtain prior EC extends to Medical Universities/Institutions but not to the Hospital of the medical university/institution. Subsequently, based on the above notification, the 4th Respondent had submitted an application to the TN SEIAA for obtaining the EC in 2016. Further, the application of the 4th Respondent was placed under Violation Category by TN SEIAA and has been directed to obtain EC as per Ministry of Environment, Forests and Climate Change notification S.O.804 (E) dated 14.03.2017. The 4th Respondent applied to TN SEIAA for Terms of References (ToR) on 11.07.2018. TN SEIAA issued the ToR to the 4th Respondent vide letter bearing No.SEIAA-TN/F.No.226/Violation/ToR - 821/2020 dated 23.11.2020. The 4th Respondent complied with the ToR and submitted the report to obtain EC on 22.08.2021. Thereafter on 16.10.2021, the 4th Respondent furnished additional details in addition to its submission made on 22.08.2021 and sought for issue of the EC at the earliest.

11. However, while things stood thus, item 8(b) of EIA Notification 2006 were amended vide the Ministry of Environment, Forest and

Climate Change Notification no. S.O.5736 (E) dated 15.09.2018 to include education institutions, hospitals and hostels for educational institutions. The threshold limit fixed by the said notification is that when the total built up area of the institution is greater than or equal to 1,50,000sq.m it's mandatory to obtain prior EC. However, the total built up area of the 4th Respondent is only 78,103.58 sq.m, thereby 4th Respondent is exempted from obtaining EC.

12. The averments in para 6 are repetitive in nature and the same had been effectively addressed/replied by this Respondent in para 09 of this Counter. Hence, for the sake of brevity the Respondent has not reiterated the same.

13. The averments in paras 7-9 of the Memorandum of Application are denied as false. As per Section 10 of the Bio-medical waste management rules, 2016, it is either the occupier or the operator, handling the bio-medical waste shall make an application to the respective authority for the grant of authorization. The 4th Respondent has entered into an agreement with an agency M/s Tamilnadu Waste Management limited to avail the service required for Bio-Medical Waste Management in compliance with the Bio-Medical Waste (Management and Handling) Rules, 2016. The relevant provision in the above said rules are extracted hereunder for ease of reference:

"10. Procedure for authorisation.-Every occupier or operator handling bio-medical waste, irrespective of the quantity shall make an application in Form II to the prescribed authority i.e. State Pollution Control Board and Pollution Control Committee, as the case may be, for grant of authorisation and the prescribed authority shall grant the provisional authorisation in Form III and the validity of such authorisation for bedded health care facility and operator of a common facility shall be synchronised with the validity of the consents.

(1) The authorisation shall be one time for non-bedded occupiers and the authorisation in such cases shall be deemed to have been granted, if not objected by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents.

(2) In case of refusal of renewal, cancellation or suspension of the authorisation by the prescribed authority, the reasons shall be recorded in writing: Provided that the prescribed authority shall give an opportunity of being heard to the applicant before such refusal of the authorisation.

(3) Every application for authorisation shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorisation is granted under these rules.

(4) In case of any change in the bio-medical waste generation, handling, treatment and disposal for which authorisation was earlier granted, the occupier or operator shall intimate to the prescribed authority about the change or variation in the activity and shall submit a fresh application in Form II for modification of the conditions of authorisation.”

Thus as alleged by the applicant, it is not a mandate for the 4th Respondent to apply and procure Authorisation under Bio-medical waste management rules, 2016. There has been zero illegal dumping/unscientific disposal as alleged by the applicant. The Bio-medical waste generated and segregated as per the Bio-medical Waste Management Rules, 2016 by the 4th Respondent and the same are taken care of by TamilNadu Waste Management Limited, who is one of the authorized agency of TNPCB, the operator handling the bio-medical waste of the 4th Respondent.

14. The averments in paras 10-12 of the Application are denied as false and the applicant is put to strict proof of the same. The 4th Respondent has set up two STPs each with a capacity of 180KLD (STP-1) and 300KLD (STP-2) and also the trade effluents generated from the Health Care Facility are being treated in the ETP. There has been no discharge of treated/untreated sewage or trade effluents as alleged by the applicant. These facts are admitted in the joint committee report filed.

15. The averments in paras 13 of the Application are denied as false. The 4th Respondent has constructed the Medical College and Hospital in survey nos.35/1,35/2,35/3,63/2,64/1A,64/1B of Noombal village, Poonamallee Taluk, Thiruvallur district bearing patta nos.283, 284 and 3273. On the bare perusal of the patta it could be ascertained that there has been no encroachment into any designated tanks or water bodies. The 4th Respondent disputes the genuineness and correctness of the alleged village map filed by the Applicant. The Applicant is put to strict proof of the same. It is submitted that the land in dispute was originally been put to use for making concrete stones used in sea shore by one partnership firm namely Ranga Structural Company. The above land is a patta land standing in the name of the above mentioned partnership firm. Therefore, the allegation as to the existence of Kulam is false and misleading. The allegation put forth by the Applicant is not

supported by any proper records or documents apart from the alleged Village map showing north eastern corner of Survey No.35 to be a Kulam. However as per revenue records and NOC issued stating that there is no kulam or water body existing and it is only patta lands.

16. The averments in paras 14 and 15 of the Application are denied as false. The 4th Respondent is using only two wells and three bore wells for their requirements. It is pertinent to state that the 4th respondent had applied to the Ministry of Water Resources, River Development and Ganga Rejuvenation seeking permission to abstract groundwater. The same was returned by the above mentioned Ministry stating that the Central Ground Water Authority (CGWA) had decided that NOC shall not be issued for the withdrawal of groundwater for Industrial/Infrastructure/Mining projects pertaining to the state of Tamil Nadu and the 4th Respondent was directed to file application before the concerned state authority. Due to the above stated event, the 4th Respondent has submitted an application to the Tiruvallur Revenue Division seeking NOC for extraction of underground water which is still pending with the concerned authority.

17. The 4th Respondent submits that with respect to the Show Cause Notice dated 22-1-2019, the 4th respondent vide letter dated 2-2-2019 issued a reply to the said show cause notice. Thereafter,

supported by any proper records or documents apart from the alleged Village map showing north eastern corner of Survey No.35 to be a Kulam. However as per revenue records and NOC issued stating that there is no kulam or water body existing and it is only patta lands.

16. The averments in paras 14 and 15 of the Application are denied as false. The 4th Respondent is using only two wells and three bore wells for their requirements. It is pertinent to state that the 4th respondent had applied to the Ministry of Water Resources, River Development and Ganga Rejuvenation seeking permission to abstract groundwater. The same was returned by the above mentioned Ministry stating that the Central Ground Water Authority (CGWA) had decided that NOC shall not be issued for the withdrawal of groundwater for Industrial/Infrastructure/Mining projects pertaining to the state of Tamil Nadu and the 4th Respondent was directed to file application before the concerned state authority. Due to the above stated event, the 4th Respondent has submitted an application to the Tiruvallur Revenue Division seeking NOC for extraction of underground water which is still pending with the concerned authority.

17. The 4th Respondent submits that with respect to the Show Cause Notice dated 22-1-2019, the 4th respondent vide letter dated 2-2-2019 issued a reply to the said show cause notice. Thereafter,

another show cause notice dated 24.01.2022 was issued by TNPCB. The 4th Respondent had responded to the same vide letter dated 28.01.2022, wherein the 4th Respondent had addressed each and every point raised by TNPCB.

18. The Applicant has reiterated the same averments under the caption 'Grounds' and the same have been answered herein above. However, the 4th Respondent submits as follows:

- a. With respect to the case laws relied on by the applicant in their grounds, it is humbly submitted that the Judgments cited by the Applicant are not relevant to the case at hand.
- b. The Applicant relied on the judgment of Hon'ble Supreme Court in *Alembic Pharmaceuticals Ltd v. Rohit Prajapati & ors* to state that in the absence of Environmental Clearance, the environment cannot be safeguarded. It is submitted that the 4th Respondent had way back in 2009 had applied for environmental clearance and the said application is pending as on date before the concerned authorities. As per the Gazette Notification No.S.O.3252 (E) dated 22.12.2014 read in conjunction with the Notification no. S.O.5736 (E) dated 15.09.2018 issued by the Ministry of Environment, Forest and Climate Change, the 4th Respondent is exempted from obtaining Environmental Clearance.

c. The judgment of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti and Anr. Vs Union of India and Ors and the judgment of Hon'ble Gujarat High Court in Abhilash Textile and others Vs The Rajkot Municipal Corporation deal with trade effluents being letting out untreated into river or drainage and on open land by various factories and industries. Therefore, they are not connected to the case at hand. At the risk of repetition it is reiterated that the 4th Respondent do not let any untreated waste outside its premises either on land or drainage system. The wastes from the college and hospital premises are treated in the two Sewage Treatment Plants and solid wastes are disposed of by the TamilNadu Waste Management Ltd. The liquid wastes are treated and are being used for the purposes within the premises like gardening etc.

d. The Applicant relying on the judgment of Hon'ble Supreme Court in N.D.Jayal and Anr Vs Union of India has emphasized the principle of sustainable development. It is submitted that the 4th Respondent has not encroached any water bodies and has been constructed on patta land. Further, the 4th Respondent is in compliant of standards fixed by various authorities required for establishing and functioning of educational institutions and hospitals. In the absence of any proof that the 4th Respondent is letting the untreated wastes out in the open land and drainage is unsustainable.

- e. Therefore, the 4th Respondent being an educational institution providing medical and allied courses and having a medical hospital attached to it, cannot be treated on par with the factories and industries. Further, the Petitioner to which provides medical services at affordable rates.
- f. Therefore, it is false to state that the 4th Respondent is causing damage to the environment and is operating in violation of the Principle of sustainable development.
- g. The 4th Respondent had entered into an agreement on yearly basis with M/s. TamilNadu Waste Management Ltd., which is an approved private agent of Tamil Nadu Pollution Control Board to handle bio wastes and bio medical wastes. Further, it is also submitted that the 4th Respondent's premises has a drainage system along with Effluent Treatment Plants(ETPs) and Sewage Treatment Plants(STPs) of suitable capacity and there has been no such illegal discharge of effluents as alleged by the applicant.
- h. It is evident from the Joint Committee report that at the premise of the 4th Respondent there are 2 STPs each with a capacity of 180 KLD (STP-1) and 300 KLD (STP-2). Further the Joint Committee report clearly states that the waste water is treated and the same are re-utilized by the 4th Respondent for the purposes such as gardening etc.

19. With respect to the Compensation sought by the Applicant, the 4th Respondent states that the 4th Respondent is not liable to pay any compensation in absence of it causing any damage to the environment. This respondent not at all attracted under Sec17 of the Green Tribunal act. Even as per Central Pollution Control board Guidelines for imposition of environmental compensation charges for Health care facilities and common Biomedical Waste Treatment Facilities as per **clause 2.0 Environmental compensation for Healthcare Facilities (HCFs)** it is prescribed as follows :

Following cases will be considered for taking cognizance of non compliance and fit for levying environmental compensation.

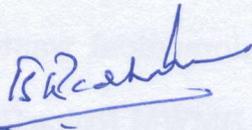
- i) No Authorization under BMWM Rules,2016
- ii) No arrangement with CBWTF for disposal of biomedical waste.
- ii) Improper segregation of generated biomedical waste as per color coded system prescribed under BMWM Rules 2016.
- iv) No facility for pre treatment of yellow (h) category waste (micro biology , biotechnology and other clinical laboratory waste)
- v) Storage facility not provided for segregated biomedical waste (applicable for bedded hospitals)
- vi) Not provided effluent treatment plant for treatment of waste water, in case when city sewerage network is not connected to terminal STP and

vii) Non compliance to other responsibilities as stipulated for
Healthcare facilities under BMW Rules 2016.

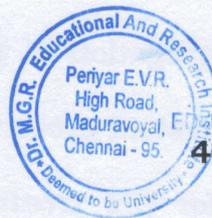
The 4th respondent not attracted any of the above stipulations and followed all prescribed facilities as discussed in above paras and hence not attracted for levying any Environmental compensation.

1. The 4th Respondent reserves its right to file additional reply, if necessary. In light of the above facts and circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the application with heavy cost and thus render justice.

Dated at Chennai on this the 30th day of July, 2022



COUNSEL FOR 4TH RESPONDENT



C. B. Palanivelu

REGISTRAR
Dr. M.G.R.

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PERIYAR E.V.R. HIGH ROAD,
MADURAVOYAL, CHENNAI - 600 095.

4TH RESPONDENT