

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE BENCH AT CHENNAI

APPEAL No. 80 Of 2021

Between :-

M/s. A.P. Environ Technologies Pvt.Ltd.,
Common Bio-Medical Waste Management Facility
D.No.674-2, Remedicherla Village,
Bollapalli Mandal, Guntur District,
State of Andhra Pradesh
Rep. by its Managing Partner

.... Appellant

And
Union of India Rep. By its Secretary,
Ministry of Environment, Forest and
Climate change, Indira Paryavaran Bhavan Jor Bagh, Lodhi Colony, New Delhi And
others
.... Respondents

SYNOPSIS AND SUBMISSIONS FILED ON BEHALF OF RESPONDENT NO.6

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Verified and Certified to be true copies of the Originals
at Hyderabad on this the 3rd day of February, 2022

V. B. Subrahmanyan
Counsel for Respondent No.6

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE BENCH AT CHENNAI

Appeal No.. 80 Of 2021

Between :

M/s. A.P. Environ Technologies
Rep. by Mr. T. Anil Kumar

.... Appellant

And

Union of India Rep. By its Secretary,
Ministry of Environment, Forest and
Climate change, Indira Paryavaran Bhavan
Jor Bagh, Lodhi Colony, New Delhi And
others and others

.... Respondents

SYNOPSIS AND SUBMISSIONS FILED ON BEHALF OF RESPONDENT NO.6

Appeal Prayer:

For the facts submitted above the Appellant prays that Hon'ble Tribunal may be pleased to declare that the order of issuing Environmental Clearance by the State Level Environment Impact Assessment Authority (SEIAA) the 5th respondent herein to M/s. Y.J. Multiclave, the 6th respondent herein, passed in File No. APPCB/63/2021-TEC-EC-APPCB in the meeting held on 02.11.2021 at Vijayawada as illegal, perverse, arbitrary, capricious, high handed, violate all cannons of law and justice and consequently set aside the same and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

The said prayer is unavailable to the Appellant for the following Reasons/Facts:

01.12.2015 : Respondent No.6/Y.J. Multiclave made an application
Page No.31 of Counter. : for Establishment of 2nd C.B.M.W.T.F in an extent of
: Ac.3.30 No.3 of 2019 cents situated at Sy.No.7/1 &
8/1, Tana Annavaram Village of Nuzendla Mandal,
Guntur District.

28.12.2015 : CFE Application of Respondent No.6/ Y.J. Multiclave to
Page No.40 of Counter : Respondent No.2/APPCB on the Ground that :
: (1) No sufficient Bed Strength and
(2) Not obtained E.C.

04.05.2016 : Respondent No.6/ Y.J. Multiclave submitted an
Page No.45 of Counter : application for issuance of TOR(Terms of Reference) to
: Respondent No.5/SEIAA

05.05.2016 : The said Application was accepted by Respondent
Page No.45 of Counter : No.5/SEIAA.

- 10.05.2016
Page No.44 of Counter : Acknowledgement slip of TOR was served by
: Respondent No.5/SEIAA to the Respondent
: No.6/Y.J.Multiclave
- 13.07.2016
Page No.42 of Counter : SEIAA/Respondent No.5 requested Respondent
: No.6/Y.J.Multiclave to obtain In Principle
: Permission from Respondent No.2/APPCB.
- 16.07.2016 : Respondent No.6/Y.J.Multiclave addressed a letter to
: 2nd respondent /APPCB to issue In Principle
: Permission.
- 03.10.2016 : Respondent No.6/Y.J.Multiclave submitted a request
: letter to SEIAA / Respondent No.5 for issuance of
: TOR(Terms of Reference).
- 23.05.2018
Page No.48 of Counter : Respondent No.2/APPCB issued In Principle Permission
: to Respondent No.6/Y.J.Multiclave
- 01.06.2018
Page No.46 of Counter : District Medical Health Officer (DHMO), Guntur
: addressed a letter to APPCB /2nd Respondent to
: consider the proposal of Y.J.Multiclave / Respondent
: No.6 for establishment of 2nd CBMWTF since the bed
: strength is exceeded more than 10000 beds.
- 04.06.2018
Page No.47 of Counter : District Medical Health Officer (DHMO) Guntur informed
: to the Respondent No.6/Y.J.Multiclave the BedStrength
: is 17499.
- 10.10.2018
Page No.50 of Counter : SEIAA/Respondent No.5 requested the Respondent
: No.6/Y.J. Multiclave to prepare EIA Report based
: on Standard TOR & Additional TOR with Public Hearing
: and submit to SEAC, A.P. for Appraisal. The TOR is
: valid for Three Years.
- 27.02.2019
Page No.53 of Counter : Respondent No.6/Y.J. Multiclave submitted EIA Report
: to Respondent No.4/Environmental Engineer and
: requested to process the application for Public
: Hearing.
- 17.08.2019
Page No.54 of Counter : Respondent No.2 informed Respondent No.6/Y.J.
: Multiclave that Competent Authority has consented to
: Public Hearing for proposed establishment of new
: CBMWTF in the name of Respondent No.6/
: Y.J.Multiclave.
- 17.08.2019
Page No.55 & 56 of Counter: : Date , time & venue for Environmental Public Hearing
: for the above project was published on 17.08.2019 in
: Andhra Jyothi and Indian Express.
- W.P.No.11945 of 2019
21.08.2019 : When the 6th respondent / Y.J.Multiclave is going for
: the Public Hearing for proposed establishment of
: 2nd CBMWTF at Guntur District in the name of
: Respondent No.6/ Y.J.Multiclave, the Appellant here in
: filed W.P.No.11945 of 2019 before Hon'ble High Court
: of Andhra Pradesh with the following Prayer:

Writ Prayer:

To issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the 5th respondent in proposing to consider the application for grant of Environmental Clearance of the 6th Respondent herein in furtherance to the In Principle Permission granted by the 2nd respondent in favour of the 6th respondent herein vide Lr.No.1/APPCB/HO/UH-IV/BMW//In-Principle//2018 dated 23.05.2018 treating the same as second facility in Guntur District is perverse, without application of mind, high handed, capricious, arbitrary, illegal, the fundamental rights guaranteed to the petitioner herein under Articles 14, 19(1)(g) of the constitution of India apart from being in violation of the provisions of Water (Prevention and Control of Pollution) Act, 1974 and the Rules made thereunder, the Air (Prevention and Control of Pollution) Act, 1981 and the Rules made thereunder and Environment (Protection) Act, 1986, the EIA, 2016, the Bio Medical Waste Management & Handling Rules and also the CPCB Guidelines issued thereunder apart from being in violation of the principles of natural justice and fair play and consequently direct the Respondents herein not to grant the EC and proceed with the grant of CFE and CFO for the proposed project of the 6th Respondent herein without completion of the process relating to the application of the petitioner herein and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

- I.A.No.1 of 2019 in W.P. : Prayer : To consider the representation dated 08.08.2019.
- I.A.No.2 of 2019 in W.P. : Prayer : " Not to consider any other applications for conduct of Public Hearing in Guntur District including 6th Respondent/Y.J.Multiclave till the application of the Petitioner herein for grant of Environmental Clearance is granted for which a public hearing is proposed to be conducted on 01.09.2019 at 11.30 A.M or any subsequent dates as the same if conducted would be....."
- 27.08.2019 : Appellant obtained interim orders as prayed for in I.A.
Page No. 60 of Counter : Nos.1 and 2 of 2019 in W.P.No.11945 of 2019
- I.A.No.3 of 2019 in W.P. : 6th respondent/Y.J.Multiclave filed Counter cum Vacate Petition along with martial papers.
- 18.09.2019 : The Hon'ble High Court of Andhra Pradesh passed
Page No.65 of Counter : following order In I.A.Nos.1, 2 and 3 of 2019:

- : "Having regard to the facts and circumstances of the case, in order to avoid inconvenience to either of the parties including the authorities of PCB and the authorities of Public Hearing, we find it appropriate to allow the concerned authority to hold public hearing, which is scheduled to be conducted on 19.09.2019. But the authorities concerned shall keep the proceedings of public hearing in a sealed cover and shall not pass any order for grant of EC until further orders".
- 19.09.2019 : Public Hearing was conducted on 19.09.2019. But the proceedings of public hearing are kept in a sealed cover.
- I.A.No.5 of 2019 in W.P. : Respondent No.6 / Y.J.Multiclave filed an Application in I.A.No.5 of 2019 "to direct the respondents to release the proceedings kept in the Sealed Cover" as per the directions of this Hon'ble Court.
- 22.07.2021
Page No.80 of Counter : The Hon'ble High Court of Andhra Pradesh directed the 2nd Respondent/APPCB to place the Proceedings of the Public Hearing before it.
- 04.08.2021
Page No.73 of Counter : The 2nd Respondent/APPCB as directed by the Hon'ble High Court placed the Proceedings of the Public Hearing along with Memo.
- 19.09.2019
Page No.74 : Minutes of the Public Hearing Held on 19.09.2019 at 11.00 at Project site
- 18.08.2021
Page No.85 of Counter : W.P.No.11945 of 2019 is disposed of directing that the Minutes of the Public Hearing be placed before the 5th Respondent-State Environment Impact Assessment Authority which shall pass appropriate order relating to grant of consent in favour of the 6th respondent-Industry in accordance with law. We keep the issue open to be decided by the 5th respondent strictly in accordance with law, keeping in mind the necessary parameters relating to Environment Policy and other allied issues. Needless to mention, the 5th respondent shall take decision in the matter at the earliest.
- 02.11.2021
Page No.17 of Appeal : Minutes of the 165th Meeting of SEIAA
- 02.11.2021 : 5th Respondent/SEIAA issued E.C. to the 6th respondent / Y.J.Multiclave.

The present Appeal is not maintainable and liable to be dismissed at the threshold for following Reasons:

1. Suppression of material facts:

- (1) Mr.T. Anil Kumar who is alleged to be the Managing Partner of the Appeal purposefully and deliberately suppressed the following facts.

- 19.03.2018
Page No.121 of Counter. : The Managing Partner of the Appellant
: Mr.T.Anil Kumar made an application
: for CFE on behalf of M/s Ravi Enviro Care.
- 28.05.2015
Page No.121 of Counter. : Bio Medical Waste Technical Committee of
: Respondent No.2/APPCB rejected the request
: for In Principle permission to M/s Ravi Enviro
: Care.
- 17.07.2018
Page Nos.114 & 123 of Counter : CFE application of M/s Ravi Enviro Care Rep. by
: Mr.T.Anil Kumar(Managing Partner of Appellant
: herein) was rejected with the following
: reasons:
- (i) The proposed site is within 75Km from
the existing CBMWTF in Guntur District.
- (ii) The APPCB already issued in-principle
permission to Y.J. Multi Clave to establish a 2nd
CBMWTF in Guntur District as the application
was received earlier.
- (iii) The Board vide Lr. Dt.28.05.2018 rejected
the request of M/s.Ravi Enviro Care in Principle
Permission for establishment of 2nd CBMWTF in
Guntur District.
- 05.06.2018
Page No.124 of Counter : Mr.T.Anil kumar Joined as partner in A.P.
: Environ Technologies(Appellant).
- 06.07.2018 : Mr.T.Anil Kumar submitted a draft EIA report to
: Respondent No.4 and requested for Public
: Hearing.

Having failed in his attempts in getting In Principle Permission from the 2nd respondent Board/APPCB in the name of M/s.Ravi Enviro Care in Principle for establishment of 2nd CBMWTF in Guntur District, Mr.T.Anil Kumar joined as partner in A.P. Environ Technologies (Appellant herein) and submitted a draft EIA report to the Respondent No.4 and requested for Public Hearing.

2. Rejection of CFE application of the Appellant for establishment of 2nd CBWTF (Common Bio-Medical Waste Treatment and Disposal Facility Guntur District has become final.

- 13.01.2015 & 27.01.2015
Page No.92 of counter : The Appellant applied for CFE for
: establishment of 2nd CBWTF (Common Bio-
: Medical Waste Treatment and Disposal Facility
: at Guntur District to the 2nd respondent/APPCB
: and the same was received by the 2nd
: respondent /APPCB on 13.01.2015 and
: 27.01.2015

16.11.2015
Page No.106 of counter : CFE application of the Appellant was
: rejected by the Respondent No.2/APPCB under
Section 25(b) of Water Act and under Section
21(4) of Air Act for the following reasons:

(i)As verified by the Board Officials there are 688 HCEs in Guntur District with bed strength of 11,149 only. As per the CPCB guide lines (Para "D") for Common Bio Medical Treatment facility (CBMWTF) regarding coverage area is that in any area only one CBMWTF may be allowed to cater upto 10,000 beds at the approved rate by the Prescribed Authority. BMWTF shall not be allowed to cater health care units situated beyond a radius of 150 KM. However , in an area where 10,000 beds are not available within a radius of 150 KM another CBMWTF may be allowed to cater the health-care units situated outside the said 150 KM. Presently a CBMWTF is in operation at Chinnakakani, Mangalagiri Mandal, Guntur District catering to HCEs in Guntur District.

li) You have not obtained Environmental Clearance.

lii) A water body is located very close to the proposed site and reserve forest is abutting the proposed site. The water Body is located in the Downstream side and is likely to be contaminated by your activity.

Sale Deed dated 11.12.2014
Page No.127 of Counter : To substantiate that the Reserve Forest is
: abutting the proposed site, the Xerox copy of
the sale deed dated of the Appellant is filed
herewith and the same may be considered for
all purposes.

19.01.2017 : Appellant made an application for land
Conversion to RDO

28.05.2017 : RDO rejected the Land conversion proceedings

Since no appeal preferred under Section28 of Water Act,1974 and Section 31 of Air Act to the Appellate Authority or 33-B of Water Act,1974 and 31-B of Air Act, 1981 before National Green Tribunal the rejection Order dated 16.11.2015 has become final.

3. No Steps by the Appellant to go for Public Hearing from the date of issuance of TOR dated 17.02.2016 to till 06.07.2018_ till Mr.T.Anil Kumar Joined as Partner on 05.06.2018.

24.12.2015
Page No.118 of Counter : Appellant applied for E.C.

17.02.2016
Page No.118 of Counter : 5th Respondent/SEIAA issued TOR to the
: Appellant.

22.03.2016
Page No.119 of Counter : Appellant submitted a letter dated
: 11.03.2016 to SEIAA /
: 5th respondent to exempt it from Public
: Hearing.

Note: Since then no steps were taken by the Appellant to go for Public Hearing from the date of issuance of TOR dated 17.02.2016 to till 06.07.2018_ till Mr.T.Anil Kumar Joined as Partner on 05.06.2018.

4. Office Memorandum

Office Memorandum
dated 22.08.2014
Page No108 of Counter : The time stipulated for issuance of Terms of
: Reference (TOR) as per the Office Memorandum
: issued by the 1st Respondent/Union of India
: dt.22.08.2014 under EIA Notification,2006 and
: the provisions of Environment (Protection)
: Act,1986 is valid for a period of Three (3) years
: for submission of EIA and EMP report. Since the
: Appellant was issued TOR on 17.02.2016
: and no steps taken since then till 06.07.2018 as
: per the Office Memorandum dated 22.08.2014,
: the EIA report submitted by the Appellant
: will become invalid.

Further the Appellant has not made any Application to the Regulatory Authority for seeking extension of Validity period of TOR to submit EIA report within at least three months before the expiry of validity period i.e, 16.02.2019. Hence the TOR in invalid.

5. W.P.No.2043 of 2019 : The Appellant filed W.P.No.2043 of 2019
: though had knowledge about issuance of TOR
: dated 10.10.2018 to the 6th Respondent /
: Y.J.Multiclave by suppressing the same and
: obtained order 17.04.2019 permitting it to go
: for Public Hearing. Public Hearing was not
: conducted.

In view of the above, It is prayed that this Hon'ble Court may be pleased to dismiss the Appeal No.80 of 2021 with costs.

Hyderabad
Date:03.02.2022

V.B. Subrahmanyam
Counsel for Respondent No.6 / Y.J.Multiclave

**BEFORE THE NATIONAL GREEN
TRIBUNAL, SOUTH ZONE BENCH
AT CHENNAI**

Appeal No.. 80 Of 2021

Between:

**M/s. A.P. Environ Technologies
Rep. by Mr.T.Anil Kumar
.... Appellant**

and

**Union of India Rep. By its
Secretary, Ministry of
Environment, Forest and
Climate change, Indira
Paryavaran Bhavan
Jor Bagh, Lodhi Colony,
New Delhi and others
.... Respondents**

**SYNOPSIS AND SUBMISSIONS FILED
ON BEHALF OF RESPONDENT NO.6**

Filed on:03.02.2022

Filed by:

**V.B.Subrahmanyam -1357
Advocate, 2-2-186/53,
Flat No.102, Trimurthy Nilayam
Ramakrishna Nagar
Bagh Amberpet
Hyderabad - 500 013
Cell No.9182532766s**

9

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P. No. 11945 of 2019

Between:

M/s. A.P. Environ Technologies, represented by Mr. T. Anil Kumar, son Sri Somaiah, aged 38 years, resident of Door No.12-222, Adarsh Nagar, Medchal District, Telangana, Having its office at Sy. No. 674-2, Remidicherla Village, Bollapalli Mandal, Guntur District.

... Petitioner

AND

1 The Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climate change, Indira Paryavaran Bhavan, Jor Bagh, Lodhi Colony, New Delhi - 110001.

2. The Andhra Pradesh Pollution Control Board, Rep. by its Member Secretary, D. No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamalavari Street Kasturibaipet, Vijayawada 520 010, Andhra Pradesh.

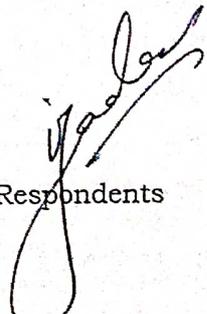
3. The Joint Environmental Engineer, Andhra Pradesh Pollution Control Board, Zonal Office, D. No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamalavari Street, Kasturibaipet, Vijayawada 520 010, Andhra Pradesh

4. The Environmental Engineer, Andhra Pradesh Pollution Control Board, Regional Office, 4-5-4/5C,4/3, Navabharath Nagar, Ring Road, Guntur - 522 006.

5. State Environment Impact Assessment Authority, Rep. by its convener, Door No. 33-26-14 D/2, Near Sun Rise Hospital, Pushpa Hotel Centre, Chelamvari Street, Kasturibaipet, Vijayawada -520 008, Andhra Pradesh.

6. M/s. Y.J. Multi Clave, Rep. by its Manager, D. No. 7/1, 8/1, Tana Annavaram, Tellabadu Village, Nuzendla Mandal, Guntur District, Having its office at H. NO.1-12-52, R & B Road, Ponnur, Guntur District - 522121.

... Respondents


MEMBER SECRETARY
A.P. Pollution Control Board
VIJAYAWADA - 520 010

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(10)

COUNTER AFFIDAVIT ON BEHALF OF 2nd RESPONDENT

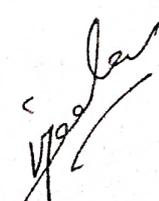
I, Vivek Yadav, S/o Motilal Yadav, Aged About: 38 years, Member Secretary, Andhra Pradesh Pollution Control Board, Door No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamalavari Street, Kasturibaipet, Vijayawada - 520010, Andhra Pradesh, do hereby solemnly and sincerely affirm and state as follows:

1. I am the Member Secretary, Andhra Pradesh Pollution Control Board, and as such I am fully acquainted with the facts of the case. I am deposing in this counter affidavit based on the records available in the matter.

2. I have read the affidavit filed in support of the above petition and I deny such of those allegations which are not expressly admitted hereunder by me and the Petitioner shall be put to strict proof of the same. I respectfully submit that the material allegations made therein against the Board are untrue and untenable. There is absolutely no truth in any of the allegations made by the petitioner in the writ affidavit and as such there are absolutely no grounds to issue any writ as prayed in the writ petition.

3. I respectfully submit that the above said Writ Petition is filed by M/s. A.P. Environ Technologies, Guntur District against the Environment Clearance (EC) application proposed to be considered by 5th respondent (SEIAA) and in-principle permission granted vide letter No.1/APPCB/HO/UH-IV/BMW/On-Principle/2018 dt. 23.05.2018 to the 6th Respondent i.e. M/s. Y J Multi Clave, Tellabadu Village, Nuzendla Mandal, Guntur District.

4. In reply to paragraph 2 and 3 of the affidavit in support of writ petition it is to submit that APPCB, Regional Office, Guntur received Consent for Establishment (CFE) application dated 13.01.2015 through single desk policy for establishment of Common Bio-medical Waste Treatment Facility (CBMWTF) in the name of M/s. A.P Environ Technologies at S.No.674-2, Remidicherla (V) of Bollapalli (M), Guntur


MEMBER SECRETARY
A.P. Pollution Control Board
VIJAYAWADA - 520 010

(11)

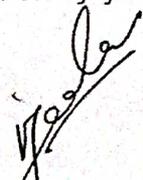
3

District. At present one CBMWTF namely M/s. Safenviron is catering to the health care facilities located in Guntur District since 2003.

5. In reply to paragraph 4 of the affidavit in support of writ petition it is to submit that the proposed site for establishment of CBMWTF in the name of M/s. A.P. Environ Technologies was inspected by the Board officials and it was observed that the site is located about 2.2 Km away from nearest habitation i.e., Remidicherla (V) of Bollapalli (M), Guntur District. The CFE application and verification report were forwarded to Head Office by Regional office, Guntur letter dated 27.01.2015 for further processing of the application. After examination of the application, the Board addressed the Divisional Forest Officer (Territorial Division), Guntur on 04.06.2015 seeking views/ Objections on establishment of CBMWTF at S.No.674-2, Remidicherla (V) of Bollapalli (M), Guntur District by M/s. A.P. Environ Technologies as the site proposed for establishment of CBMWTF is abutting reserved forest. The Divisional Forest Officer forwarded the report vide letter dated 27.07.2015 to Head Office.

"The Divisional Forest Officer, Guntur vide report dated 27.07.2015 submitted remarks as follows:

- (a) *The area was inspected by the Forest Range Officer on 28.06.2015 together with section staff Bollapalli and stated that the plant area is adjacent to the Compartment No. 34 of Bollapalli Extn-I, Reserve Forest of Domalagundam Beat of Bollapalli section and found that the area is outside the Reserve Forest Area and located at a distance of 5 mtrs.*
- (b) *The area was inspected by the undersigned on 22.07.2015. After verification of the field conditions, M/s. A.P. Environ Technologies may be permitted for establishing Common Bio-medical Waste Treatment Facility (CBMWTF) at S.No. 674-2, Remidicherla (V), Bollapalli (M), Guntur District. subject to the fulfillment of the following conditions:*
 - (i) *Since the project is adjacent and located at a distance of 5 mtrs from the RF boundary the User agency should construct a high level compound wall by leaving at least 7.5 mtrs from the Reserve Forest Boundary*
 - (ii) *The User Agency should ensure that the polluted waste water originating from the plant should not be entered outside the plant and measures be taken to implant a purifier and such a purified water be utilized for development of Green Belt.*
 - (iii) *The plant must be launched strictly as per the rules and laws governing AP Pollution Control Board.*
 - (iv) *The user agency should not violate the provisions of AP Forest Act, 1967 and Forest (Conservation) Act, 1980. For any lapses the orders issued now will be revoked*
 - (v) *The user agency should give an undertaking in Rs. 100/- stamp paper accepting that they would abide to the conditions, rules and regulations applicable if any in the interest of forest protection.*


MEMBER SECRETARY
A.P. Pollution Control Board
VIJAYAWADA - 520 010

4 (12)
6. In reply to paragraph 5 to 7 of the affidavit in support of writ petition it is to submit that the CFE application was placed before the BMW technical Committee during meeting held on 24.08.2015 at Head Office and noted the following:

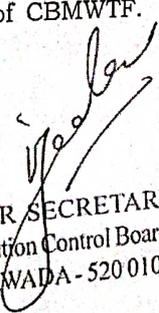
"As per MOEF&CC, GoI amendment order to the Environmental Impact Assessment (EIA) Notification, 2006, S.O.No.1142 (E), dated 17.04.2015 that the CBMWTF has to obtain the Environmental Clearance".

7. The APPCB addressed a letter to the proponent on 06.09.2015 communicated the recommendations of the Committee, stating that the CFE application will be further processed after submission of Environmental Clearance obtained from MOEF&CC as per notification S.O.No.1142 (E), dated 17.04.2015. Further, the Board reexamined the matter and on 16.11.2015 rejected the CFE application for the following reasons:

- (i) As verified by the Board officials there are 488 HCEs in Guntur District with bed strength of 11,149 only. As per the CPCB guidelines (para "D") for Common Bio Medical Waste Treatment Facility (CBMWTF) regarding coverage area is that in any area only one CBMWTF may be allowed to cater upto 10,000 beds at the approved rate by the Prescribed Authority. A CBMWTF shall not be allowed to cater healthcare units situated beyond a radius of 150 Km. However, in an area where 10,000 beds are not available within a radius of 150Km, another CBMWTF may be allowed to cater the healthcare units situated outside the said 150 Km. Presently a CBMWTF is in operation at Chinnakakani, Mangalagiri Mandal, Guntur District catering to HCEs in Guntur District.
- (ii) You have not obtained Environmental Clearance. Water body is located very close to the proposed site and reserve forest is abutting the proposed site. The water body is located in the downstream side and is likely to be contaminated by your activity.

8. In reply to paragraph 8 of the affidavit in support of writ petition it is to submit that the matter relates to SEIAA (5th respondent).

9. In reply to paragraph 9 of the affidavit in support of writ petition it is to submit that the MOEF&CC, GoI (SEIAA, Andhra Pradesh) vide letter dated 17.02.2016 issued Terms of references (ToR) to M/s. A.P. Environ Technologies on the proposal for establishment of CBMWTF.


MEMBER SECRETARY
A.P. Pollution Control Board
VIJAYAWADA - 520 010

The project proponent has submitted the draft EIA report at RO, Guntur on 06.07.2018 to conduct for Environmental public hearing and to forward the minutes of the proceedings to the SEIAA, GoAP.

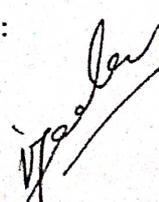
10. The soft and hard copy of Environment Impact Assessment (EIA) report executive summary in Telugu and English along with soft copy in CD on the proposal by M/s. A.P. Environ Technologies were circulated to the concerned departments on 07.07.2018 with a request to display the same on the conspicuous place of office premises for information and access to the public.

11. The file was circulated to the District Collector, Guntur District to fix the date, time and venue to conduct the Environmental public hearing as per the provisions of the EIA notification, 2006 and amendments thereof. The District Collector & Magistrate, Guntur District endorsed the file to the Joint Collector, Guntur on 15.07.2018 to conduct the public hearing. The Joint Collector on 18.07.2018 expressed his convenience to conduct the Environmental public hearing for the above project on 24.08.2018 at 11:00 A.M.

12. The note was submitted to the Board for the approval of the Member Secretary to confirm the time, date and venue to convene the proposed Environmental public hearing on 24.08.2018.

13. In reply to paragraph 10 of the affidavit in support of writ petition it is to submit that Board rejected the CFE application 16.11.2015 duly stating reasons. The petitioner has not challenged the CFE rejection order. And hence the Board vide Memo dated 31.07.2018 instructed the Regional Officer, Guntur not to conduct the public hearing for the proposed project. The Regional officer was further directed to appraise the Collector & District Magistrate to stop the process of conducting public hearing.

14. The proponent i.e. M/s. A.P. Environ Technologies at S.No.674-2, Remidicherla (V) of Bollapalli (M), Guntur District has filed W.P.No.2043 of 2019. The Hon'ble High Court vide order dated 17.04.2019 issued the following orders while disposing W.P.No. 2043 of 2019:


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"In view of the reasons recorded above and following the judgment of the Supreme Court in Hanuman Laxman Aroskar V. Union of India with Federation of Rainbow Warriors vs. Union of India (referred supra), public hearing is mandatory. In present case, by the date of filing of Writ petition, terms of reference was within time. However, the learned counsel for the respondents contended that, in the authorities had already come to a conclusion that the subject site is not suitable for establishment of the unit, the question of ordering of public hearing is a futile exercise. But the same cannot be at this stage. Hence, we find it a fit case to direct the respondents to hold public hearing as mandated in the judgment referred supra.

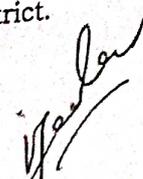
With the above, writ petition is allowed. No Costs.

Consequently, miscellaneous application pending if any, shall stand closed".

15. I submit that, in obedience to the above order of this Hon'ble Court, the Board issued the public hearing notification in two dailies of local vernacular and English languages of "SAKSHI" and "THE HINDU" respectively, on 08.08.2019 duly notifying that the public hearing will be held on 11.09.2019 at MPDO Office, Bollapalli (M), Guntur District on the proposal of M/s. A.P. Environ Technologies to Establish CBMWTF. The District Collector & Magistrate, Guntur District instructed on 10.09.2019 to postpone the public hearing for the CBMWTF project proposed by M/s. A.P. Environ Technologies as the situation is not conducive to conduct the public hearing in view of "Chalo Atmakur" programme called by opposition party.

16. In reply to paragraph 11 of the affidavit in support of the petition, it is to submit that M/s. Y.J.Multiclave has applied for Consent for Establishment (CFE) of the Board for setting up of a CBMWTF at R.S.No.7/1 & 8/1, Tana Annavaaram (V), Nuzvendla (M), Guntur District. The CFE application was rejected vide letter dated 28.12.2015 stating that already CBMWTF is in operation catering 11,149 beds and not obtained Environmental Clearance (EC).

17. M/s. Y.J.Multiclave applied for ToR from SEIAA of AP. Vide letter dated 13.07.2016, the SEIAA requested to submit "In-principle" permission from APPCB for setting up of CBMWTF. M/s. Y.J.Multiclave was issued "In- principle" permission by the Board vide letter dated 23.05.2018 for establishment of 2nd CBMWTF at Guntur District.


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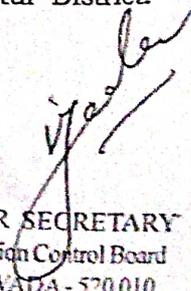
18. M/s. Y.J.Multiclave obtained ToR from SEIAA to establish CBMWTF of capacity 7,000 Kg/day at R.S.No. 7/1 & 8/1, Tana Annavaram (V), Nuzvendla (M), Guntur District and requested to prepare EIA report based on standard ToR & said additional ToR with public hearing and submit to the SEAC, AP for appraisal.

19. The public hearing for M/s. Y.J. Multiclave was proposed to be conducted on 19.09.2019 at 11.00 AM near project site, Tana Annavaram, Nuzendla Mandal, Guntur District. Accordingly, the EPH notification was advertised in Andhra Jyothi and the Indian Express news dailies on 17.08.2019. The petitioner (M/s. A.P. Environ Technologies) filed a petition before the Hon'ble High Court vide W.P. No. 11945 of 2019 against the public hearing notification advertised for establishment of CBMWTF in the name of M/s. Y.J. Multiclave to locate at Tana Annavaram, Nuzendla Mandal, Guntur District.

20. As per the interim orders dt. 18.09.2019 in W.P. No. 11945 of 2019, the public hearing for M/s. Y.J. Multiclave (CBMWTF) scheduled to be conducted on 19-09-2019 was held as scheduled. However the minutes of the meeting are kept in sealed cover until further orders in the matter accordingly.

21. In reply to paragraph 12 of the affidavit in support of writ petition it is to submit that the APPCB vide letter dated 23.05.2018 issued In-principle permission for establishment of 2nd CBMWTF at Guntur District by the 6th respondent. Further, the SEIAA, GoAP (MoEF&CC, GoI) issued ToR to the 6th respondent vide letter dated 10.10.2018 to comply with the BMW Rules, 2016 and CPCB revised guidelines dated 21.12.2016 to establish CBMWTF of 7000 Kg/day capacity with public hearing and with additional ToR.

22. On the representation of 6th respondent along with ToR issued by SEIAA, Andhra Pradesh (MoEFF&CC, GoI) on 10.10.2018, the Board fixed 19th September, 2019 at 11:00 A.M to conduct public hearing on the proposal to establish CBMWTF at Tana Annavaram (V), Nuzvendla(M), Guntur District in the name of M/s. Y.J.Multiclave to cater treatment and disposal of BMW generated at Guntur District.


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Further, the public hearing notification was advertised in "Andhra Jyothi" and "Indian Express" news dailies on 17.08.2019 duly notifying the public hearing for the above project scheduled to convene on 19.09.2019 at 11:00 AM near project site at S.No. 7/1, 8/1, Tana Annavaram (V), Nuzvendla (M), Guntur District. As regards the application of the petition for CFE to establish the CBMWTF it is to submit that the application was rejected by the Board on 16.11.2015 duly stating reasons i.e. not having sufficient bed strength, not obtained Environmental Clearance, a water body located in downstream side is likely to be contaminated and reserved forest is abutting the proposed site.

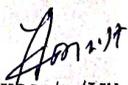
23. In reply to paragraph 13-15 of the affidavit in support of writ petition it is to submit that there are no comments of the answering respondent.

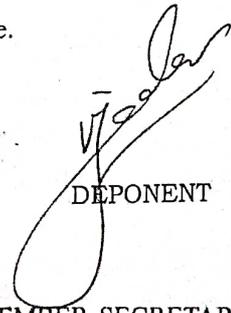
24. In reply to paragraph 16 and 17 of the affidavit in support of writ petition it is to submit that the SEAC on 13.07.2016 requested the respondent No.6 to submit in principle permission from the APPCB and the APPCB issued the in-principle permission to Respondent-6 on 23.05.2018. The Board earlier rejected the CFE application of the petitioner on 16.11.2015 and no challenge is made against that rejection order and got its finality cannot claim in this writ petition.

25. It is therefore just and essential that this Hon'ble Court may be pleased to pass appropriate orders in the above writ petition as may be deemed fit and proper in the circumstances of the case.

Sworn and signed before me on this the
18th day of January, 2020 at Vijayawada.

Before me.


Advocate/Vijayawada


DEPONENT

MEMBER SECRETARY
A.P. Pollution Control Board
VIJAYAWADA - 520 010

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VERIFICATION STATEMENT

I, Vivek Yadav, S/o Motilal Yadav, Aged About: 38 years, Member Secretary, Andhra Pradesh Pollution Control Board, Door No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamalavari Street, Kasturibaipet, Vijayawada - 520010, Andhra Pradesh, and being well acquainted with the facts do hereby verify and state that averments made in the affidavit are based on records and believed to be correct. Verified at Vijayawada on this the day of 18th January, 2020.


Counsel for Respondent


DEPONENT

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A.P. Pollution Control Board
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Guntur District

HIGH COURT OF ANDHRA PRADESH AT
AMARAVATI

W.P. No. 11945 OF 2019

COUNTER AFFIDAVIT ON BEHALF OF
2nd RESPONDENT

Filed on: 21.01.2020

Filed by:

V.SURENDRA REDDY (22278)
C.Vishnu Vardhan
Advocates

Counsel for Respondent 2 to 4