

**BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE),  
CHENNAI**

**Appeal No. 08 of 2020(SZ)**

Between:

Environment Support Group & another ..... Applicants

vs.

Karnataka Road Development Corporation  
Limited, Bengaluru and Others ..... Respondents

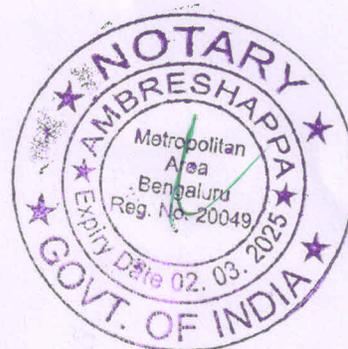
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Place:

Date:

Through Counsel



**BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE)**

**CHENNAI**

**Appeal No. 08/2020**

**Between:**

Environment Support Group & another ..... Applicants

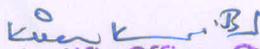
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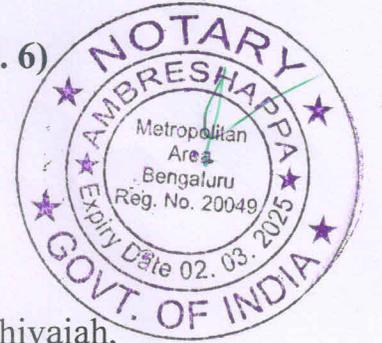
Karnataka Road Development Corporation  
Limited, Bengaluru and Others ..... Respondents

**COUNTER AFFIDAVIT OF THE STATE LEVEL  
ENVIRONMENT IMPACT ASSESSMENT  
AUTHORITY, KARNATAKA (RESPONDENT NO. 6)**

**Most Respectfully Showeth:**

I, Kiran Kumar. B S , aged about 39 years, son of B S Shivaiah,  
currently working as the Scientific Officer Grade-I , Forest  
Ecology and Environment Department, Karnataka Government

  
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Secretariat and assisting the State Level Environment Impact Assessment Authority, Karnataka, Bengaluru do hereby solemnly affirm and state on oath that I am competent to swear this affidavit in my official capacity and am familiar with the facts and circumstances of the present matter. I state that the contents of the present affidavit are true and correct and are verifiable from official records and nothing material has been concealed there from.

1. It is respectfully submitted that the State Level Environment Impact Assessment Authority, Karnataka, (hereafter, the “SEIAA”) have granted Environmental Clearance to the project under consideration in the above referenced Appeal, in accordance with applicable law. The allegations against the SEIAA are without any factual or legal basis and the appeal merits outright dismissal as against SEIAA. Without any prejudice to this, a consolidated reply to the Appeal is submitted hereinbelow, while reserving the right to file a detailed parawise reply, if so necessitated, with the permission of this Hon'ble Tribunal. It is respectfully submitted that each of the submissions and allegations against SEIAA in the Appeal, may be deemed denied unless specifically admitted to herein below.



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2. It is respectfully submitted that the application submitted by the 1<sup>st</sup> Respondent, Karnataka Road Development Corporation Limited, Bengaluru. Was duly considered by the State Level Expert Appraisal Committee in accordance with law and based on the information furnished by the Project proponent in the statutory application, EIA Report, Presentation made before the committee, additional information and clarification submitted. The State Level Expert Appraisal Committee (the "SEAC") has recommended for issue of Environmental Clearance and based on such recommendation, the SEIAA, has issued Environmental Clearance.

3. It may be necessary to submit that the SEAC while considering the application submitted by the respondent No.1 seeking Environment Clearance under EIA Notification, 2006 during the meeting held on 28.09.2018 have observed that the proposed construction of elevated corridor is an Urban Infrastructure project and hence require environment clearance under the provisions at Sl No. 8(b)- Township and Area Development Projects in the schedule to EIA Notification, 2006 in terms of

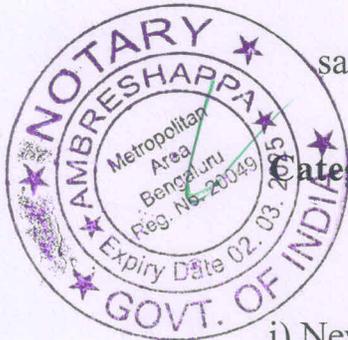


  
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the orders passed by this Hon'ble Tribunal on 30<sup>th</sup> March 2017 in Application No. 243 & 245 of 2016 (SZ). Para 111 of the said order of this Hon'ble Tribunal reads as follows;

“111. In view of the earlier discussion and findings, we hold that the proposed project of construction of the six lane elevated road from Basaveshwara Circle to Hebbal flyover would fall under Entry 8(b) of the Schedule of Regulations 2006. Therefore, the project requires prior EC as provided under Para 7 of Regulations 2006. Respondent No.6, BDA, the project proponent shall not proceed with the construction without obtaining prior EC. Respondent No.6, BDA, the project Proponent is at liberty to apply for granting EC before SEIAA, Karnataka. If such application is received, the SEIAA, Karnataka is directed to pass appropriate orders in accordance with law”.

4. It is respectfully submitted that as per the provisions at 7(f) – Highways, in the schedule to EIA Notification, 2006, the following activities require Environment Clearance under the said notification from the competent authority;



**Category A: Projects requiring Environment Clearance from the Central Government in the Ministry of Environment and Forest (MoEF)**

- i) New National Highways

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- ii) Expansion of National High ways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignment and 60m on re-alignment or by-passes.

**Category B: Projects requiring Environment Clearance from the State Environment Impact Assessment Authority (SEIAA)**

- i) All New State Highway Projects;
- ii) State Highway expansion projects in hilly terrain (above 1000m AMSL) and or ecologically sensitive areas.

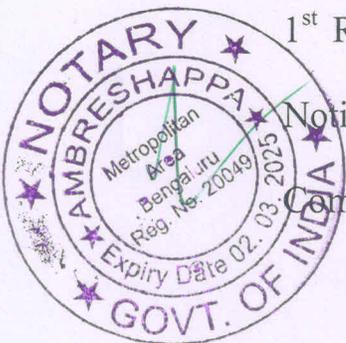
5. It is respectfully submitted that the proposed construction Elevated Corridor within Bengaluru Metropolitan do not get qualified to consider under the provisions at Sl No. 7(f) – highways in the schedule to EIA Notification, 2006 under any imagination and therefore, consideration of the said application under 8(b) – Township and Area Development Project in line with the orders of this Hon'ble Tribunal for issue of Environmental Clearance Under EIA Notification, 2006 is justified. Hence, the averments made by the appellant with regard to the provisions of law under which the application submitted by the 1st Respondent is misleading and baseless.



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6. It is respectfully submitted that the projects/ activities considered under EIA Notification, 2006 are issued with “Prior Environmental Clearance” by the competent authority subject to strict compliance to the conditions of such clearance. Hence, the order of Environmental Clearance granted to the 1<sup>st</sup> Respondent vide letter No. SEIAA 135 CON 2018, dated: 02.03.2019 is a “Prior Environmental Clearance” issued based on the conceptual plan and other statutory documents under the provisions of EIA Notification, 2006 subject to strict compliance of the Specific and General conditions imposed thereon which includes obtaining clearances from all other statutory authorities required under law. Any non-compliance of such condition will be dealt with in accordance with law. Therefore, the contentions made in the appeal with regard to requirement of clearances from other authorities is exaggeration of facts and misleading.

7. It is respectfully submitted that the application submitted by the 1<sup>st</sup> Respondent seeking Environmental Clearance under EIA Notification, 2006 was considered by the State Expert Appraisal Committee in accordance with law, the terms of reference



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granted for conducting Environment Impact Assessment Study and the project proponent have submitted the EIA report following due procedure of law. The State Expert Appraisal Committee (SEAC) have appraised the project proposal with due importance and on the principles of “Sustainable Development” and have recommended for issue of Environmental Clearance. Accordingly Environmental Clearance has been granted by the State Level Environment Impact Assessment Authority, Karnataka. Therefore, averments made by the appellant with regard to the manner in which the application has been considered, ToR granted, EIA Study, Submission of EIA Report and grant of environment clearance are misleading and far from truth.

8. It is respectfully submitted that, as per the provisions under Para 7 (1) (III) (I) (d) of the EIA Notification, 2006, all building or construction projects or area development project (Which do not contain any category “A” projects and activities) and Townships (Item 8 (a) and 8(b) in the schedule to the Notification) are exempted from the process of “Public Consultation”. Therefore,



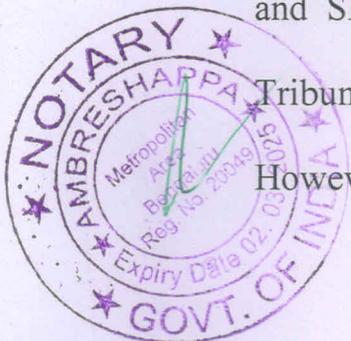
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the contention made in the appeal with regard to requirement of public consultations is far from truth and misleading.

9. It is respectfully submitted that the proposal of Respondent No. 1 has been appraised by the State Expert Appraisal Committee following the due procedure of law and with due application of mind. The Environmental Clearance has been issued by the SEIAA, following the principles of sustainable development, subject to compliance of both specific and general conditions entailed. It may be necessary to add herein that requisite clearance have been granted to the project proponent in terms of applicable law and any deviations from or violations of applicable law or conditions imposed by SEIAA, will be dealt with strictly in terms of applicable law.

10. Without any prejudice to the submissions hereinabove, it is respectfully submitted that SEIAA has no specific comments to the interim relief or the main relief prayed for by the Applicant and SEIAA will be bound by the directions of this Hon'ble Tribunal, if any, after consideration of the merits of the Appeal.

However, based on the fact that the Appellants have based their



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Appeal and grounds on fiction, presumptions and misleading statements. Hence the prayers in the Appeal are not sustainable.

**P R A Y E R**

In view of the submissions made hereinabove, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) dismiss the Appeal as against Respondent No. 6, SEIAA;
- b) pass any other order(s) as deemed fit and proper in the facts and circumstances of the matter.

Place: *Bangalore*

Date: *21/10/2020*

*K. K. S.*

**DEPONENT**  
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SWORN TO BEFORE ME  
*A.S.*  
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*21 OCT 2020*

No. of Corrections...*nil*

**VERIFICATION**

Verified on this 20<sup>th</sup> day of October, 2020 at Bengaluru, that the contents of the above affidavit are true and correct and as verifiable from official records and nothing material has been concealed therefrom.

*Kiran K B S*

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Place: *Bengaluru*

Date: *21/10/2020*



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21 OCT 2020

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Dated:.....*21/10/2020*.....

No. of Corrections...*Nil*.....